

# Sexual Harassment Policy and Procedures

Clarion University of Pennsylvania

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# **Sexual Harassment Policy and Procedures**

## **I. Policy**

It is the policy of Clarion University of Pennsylvania that harassment of students and employees based on sex is unacceptable and will not be tolerated. Clarion University is committed to insuring that the learning environment for its students and the working environment for its employees are free of unlawful discrimination of any kind. The university affirms its commitment to human rights and dignity. Sexual harassment violates basic human rights as well as state and federal laws, and is inconsistent with the principles and goals of an academic community.

Clarion University of Pennsylvania will make every effort to protect students, staff, and faculty from sexual harassment. Retaliatory actions taken against persons filing sexual harassment complaints will not be tolerated. The university also recognizes that accusations of sexual harassment are grievous and have serious consequences. Therefore, the university will make every effort to protect students, staff, and faculty from false accusations.

Any employee or student of the university found to be in violation of this policy will be subject to appropriate disciplinary action that may include termination or expulsion.

Clarion University, through the Office of Social Equity and the Presidential Commission on Sexual Harassment will ensure that this policy receives wide dissemination so that students, parents, faculty, administration and staff are aware of the policy and its provisions.

## **II. Definition of Sexual Harassment**

In accordance with the Equal Employment Opportunity Commission (EEOC) Guidelines of 1980, Section 703 of Title VII of the Civil Rights Act of 1964, as amended, the pertinent case laws of Title IX of the Education Amendments of 1972, and Section 5(a) of the Pennsylvania Human Relations Act, Clarion University defines sexual harassment as follows:

Unwelcome sexual advances, requests for sexual favors, or conduct of a sexual nature will constitute sexual harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic success; or
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individuals; or
- (3) Such conduct is sufficiently pervasive or severe to have the effect of interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive work or academic environment.

Sexual harassment occurs in a variety of situations which share a common element: the introduction of sexual activities, written, pictorial, electronic (e.g. e-mail) or other conduct that is

sexual, into the learning, or working environment that have no legitimate educational or instructional purpose. Often, sexual harassment involves relationships of unequal power, and contains elements of coercion, such as when the granting of sexual favors becomes a criterion for employment or academic success. Sexual harassment may also involve relationships among people of same or different gender, and/or equal status. When repeated sexual advances have a harmful effect upon a person's ability to study or work, they may be considered sexual harassment.

The standard of judgment is that of a reasonable person, that is, the victim must demonstrate that a reasonable person would find the environment hostile and abusive. Recent court decisions and EEOC Guidelines have established that in order to be actionable and in violation of federal law, conditions of sexual harassment need not only be "quid pro quo" harassment, where submission or rejection of such conduct is used as a condition of an individual employment or academic success or used as the basis for employment or academic decisions affecting such individuals. Under Title VII and Title IX, conduct that is sufficiently pervasive or severe to have the effect of creating a hostile work or academic environment is also illegal and actionable.

Discussion of ideas or theories that some employees or students may find offensive is not necessarily sexual harassment. Specific examples of sexual harassment would include, but are not limited to: sexually suggestive gestures, comments, innuendoes, jokes or questions of a sexual nature; that are sufficiently pervasive or severe to have the effect of stigmatizing, insulting, or ridiculing others on the basis of sex or sexual orientation; implied or overt threats; the use of sexually explicit pictures, objects, or materials in classroom or work areas that have no legitimate or instructional purposes; unwelcomed letters, e-mail or phone calls of a sexual nature; sexual graffiti or visuals; unwelcomed touching, pinching, or patting; repeatedly asking for a date after the person has expressed disinterest; and pressure for sexual favors. In some cases the invasion of "personal space" may take the form of Sexual Harassment if it occurs simultaneously with other conduct that is of a sexual nature. Extreme forms of sexual harassment include sexual assault or rape, which are considered criminal offenses.

### **III. Procedures**

The procedures described below are applicable to any student, employee, or applicant for education programs or employment who believes that he/she has been the victim of sexual harassment. Concerns about sexual harassment should be brought to the Office of Social Equity directly. Individuals may bring their concerns about sexual harassment to a faculty member or advisor, a public safety officer, a residence hall assistant or director, a member of the university administration or any member of the President's Commission on Sexual Harassment for the purpose of obtaining information and/or moral support. Such individuals should then report the concerns to The Office of Social Equity and encourage the complainant to go to the Office of Social Equity to discuss the matter further.

- The timeframe for filing a complaint is generally 180 calendar days from the date the incident occurred, and 300 days for cross-filing.
- Resolution of the complaint shall be sought as quickly as possible while maintaining

standards of fairness.

- These procedures are not meant to replace other university procedures available under established laws or collective bargaining contracts and, where permissible, a complainant may choose either this procedure or any other applicable procedure. (See Appendix B.)
- The complainant or the hearing party should promptly report sexual harassment complaints to the Office of Social Equity, regardless of the nature of the complaint or the party with whom the complaint is discussed.
- The social equity office has the responsibility for investigating sexual harassment complaints filed and will attempt to conduct the investigation within 30-60 calendar days from receipt of the complaint.
- The Office of Social Equity will notify employees and students accused of sexual harassment generally within a twenty (20) day period.
- Investigative information will be retained for at least three years in the Office of Social Equity as part of a data file on sexual harassment at the university.

## **A. Informal Review**

1. The complainant reports the complaint to the Office of Social Equity. After an initial interview, the social equity officer may suggest that the complainant take individual action to resolve the problem through verbal or written communication with the person whose actions the complainant found offensive.
2. If that approach does not resolve the matter, or if the complainant does not want to deal directly with the accused, the social equity officer will attempt to act as mediator in an effort to achieve an informal resolution to the problem. The accused will be informed of the concerns or complaint as presented by the complainant and will be afforded an opportunity to respond. Said response may be a written or oral presentation of factual data.
3. During all informal attempts to resolve a problem, every effort shall be made to: (1) notify the accused of the nature of the complaint (which is generally within a twenty (20) day period); (2) identify or defer the identification of the complainant, as appropriate; and (3) maintain confidentiality of the investigative process.
4. The accused will be afforded an opportunity to respond to the complaint. Said response may be a written or oral presentation of factual data.
5. The complainant or the accused party may be accompanied by any person of their choosing from within the university community during the informal process or meetings for the purpose of consultation. If either party is covered under a collective bargaining agreement with the university, the social equity officer will inform that party of his/her right to union representation.

## **B. Formal Review**

1. All formal complaints are based on specific charges heard at the informal level. If the

concerns raised cannot be resolved through informal discussions, or if the conduct reported is so egregious that the complainant wishes to proceed directly to formal procedures, the complainant should consult with the social equity officer and then file a formal written complaint.

2. If the social equity officer believes that the complaint has merit (that it warrants an investigation) the social equity officer will notify the accused that a complaint has been filed and will send a copy of the formal, written complaint to the accused. This notification will generally take place within a twenty (20) day period.
3. If either party is covered under a collective bargaining agreement with the university, the social equity officer will inform that party of his/her right to union representation.
4. The accused will be afforded an opportunity to respond to the charges as specified in the Formal complaint and to prepare a response to these charges, including written and oral presentations of factual data. The complainant and accused may be accompanied by any person of their choosing from within the university community during the investigation and resolution of the case for the purposes of consultation.
5. All formal, written complaints will be given a specific, full, impartial, and expeditious investigation by the Office of Social Equity. During such investigations, while every effort will be made to protect the privacy rights of all parties, confidentiality cannot be guaranteed.
6. The social equity officer has the responsibility for investigating complaints filed, and when possible, the investigation will be completed within thirty to sixty (30-60) days from receipt of the written complaint. As part of the investigative process, the social equity officer will gather evidence on the alleged sexual harassment complaint, and this evidence may take the form of written or oral presentation of factual data or the collection of said data.
7. The investigation will, in all cases, be thorough and circumspect. The complainant and accused will have access to the results of the investigation at the conclusion of the investigation.

### **C. Sanctions and Remedies**

1. If investigation of a reported occurrence of sexual harassment reveals that the complaint seems to be without reasonable foundation, both parties will be so informed. If, however, the social equity officer finds that it is more probable than not that there has been a violation of the university's Sexual Harassment Policy, the officer will report these findings to the president or to the vice president for student affairs (in student related cases) as appropriate. Disciplinary proceedings, if and when initiated, against staff or faculty will be in accordance with the appropriate procedures outlined in the Commonwealth of Pennsylvania's Personnel Rules or in any of the pertinent collective

bargaining agreements in effect at the university. Disciplinary proceedings, if and when initiated, against a student will be in accordance with the appropriate procedures outlined in the *Student Rights, Regulations, and Procedures Handbook*.

2. Possible sanctions include, but are not limited to: a verbal warning, a written warning, a formal reprimand, reassignment of responsibilities, suspension, expulsion from the university, or termination of employment. The complainant and the accused will be informed of the specific action taken. The overall remedy desired in valid sexual harassment cases is the removal of the cause of the complaint. The university will earnestly attempt to do whatever is necessary to achieve this end in seeking remedies as dictated by the specific case.
3. If the complainant or the accused remains dissatisfied with the results of the process, he/she should so inform the president or vice president for student affairs, as appropriate, within five (5) business days from the date that he/she was informed of the complaint's findings.
4. The complainant generally has 180 calendar days from the actual date of which the incident occurred to file a formal complaint with the Pennsylvania Human Relations Commission and 300 calendar days to cross-file with another federal agency such as the United States Equal Opportunity Commission, or the United States Department of Education, Office of Civil Rights.
5. In the event it is shown that a complaint has been filed maliciously, appropriate sanctions will be imposed on the complainant.

#### **D. Prohibition of Retaliation**

Neither the complainant nor other individuals (e.g. witnesses) shall be subjected to discharge, suspension, discipline, harassment, or any form of retaliation for having participated in or having helped others use this complaint process.

#### **E. Presidential Commission on Sexual Harassment**

This Presidential Commission on Sexual Harassment will be responsible for asserting the position of Clarion University that sexual harassment of students and employees is unacceptable and will not be tolerated. The commission is responsible for recommending sexual harassment policies and procedures, planning and presenting education programs.

The members of the commission are appointed by the university president and consist of faculty,

staff, and students. Members of the commission are available to provide information about the university sexual harassment policy and procedures relative to sexual harassment. They are also able to provide moral support to victims complaining of such conduct.

Any member of the university community who believes she or he has been sexually harassed may discuss this problem with a commission member of his or her choice. The commission member will listen to the complainant, and if the concerns have merit, should advise the complainant to report the matter to the social equity officer or the commission member should contact the social equity officer to report the concerns.

A current list of members may be obtained by contacting the Office of Social Equity at (814) 393-2109.

## **F. Revisions**

In order to be responsive to changes in state system policies and case law, this policy may be revised periodically.

## APPENDIX A

**Pennsylvania Human Relations Act of 1955**, as amended, prohibits discrimination based on sex, race, color, religion, and national origin in the Commonwealth of Pennsylvania.

**The Equal Pay Act of 1963**, an amendment to the Fair Labor Standards Act, prohibits pay discrimination based on sex on jobs that are substantially equal.

**Title VII of the Civil Rights Act of 1964**, prohibits discrimination based on sex, as well as on race, color, religion and national origin, in hiring or firing; wages; fringe benefits; referring, assigning, or promoting; extending or assigning use of facilities; training, retraining, or apprenticeships; or any other terms, conditions, or privileges or employment.

**Title IX of the 1972 Education Amendments** states no 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.

**The Women's Education Equality Act of 1974** authorizes activities at all levels of education to overcome sex-stereotyping and achieve equality for women.

**The Job Training Partnership Act of 1982**, PS 97300, permanently authorizes job training programs for economically disadvantaged individuals and others who face serious barriers to employment. JTPA replaces Comprehensive Education and Training Act. Programs and activities funded or otherwise financially assisted in whole or in part under this act are considered to be programs and activities receiving federal financial assistance and thus subject to prohibitions against discrimination based on sex under Title IX of the Education Amendments of 1972.

**Excellence & Equity (1995)** SSHE general sexual harassment policy and procedure guidelines.

**The Executive Order 11246**, as amended by Executive Order 11375, requires federal contracts to include language by which contractors pledge not to discriminate against any employee or applicant for employment because of sex, race, color, religion, or national origin. Large contractors must further pledge to take affirmative action to ensure nondiscriminatory treatment.

**The Vocational Education Act**, as amended, requires the provision of activities to eliminate sex bias, stereotyping, and discrimination in federally funded vocational education programs and requires each state to employ a full-time sex equality coordinator to ensure the elimination of bias and occupational segregation in those programs.

**Commonwealth of Pennsylvania Governor's Executive Order # 1988-1** prohibits any agency under the jurisdiction of the Governor from discriminating against any employee or applicant for employment based on race, color, religious creed, ancestry, union membership, age, sex, sexual orientation, national origin, or non-job related handicap or disability.

**Article 43: - Collective Bargaining Agreement** negotiated between the State System of Higher

Education and APSCUF, delineates the provisions regarding the investigation of complaints against faculty members.

## APPENDIX B

### Offices and Agencies Providing Assistance

Clarion University Office of Social Equity.....	393-2109
207 Carrier Hall	
Clarion University Counseling Services Department .....	393-2255
148 Egbert Hall	
Clarion University Office of Director of Student Affairs .....	(814) 676-6591
219 Montgomery Hall, Venango Campus	Ext. 1270
Clarion University Counseling Services Department .....	(814) 676-6591
236 Montgomery Hall, Venango Campus	Ext. 1283
PASSAGES .....	226-7273
105 S. 5 <sup>th</sup> Avenue	
Clarion, PA 16214	
PASSAGES .....	(814) 849-5303
P.O.Box 96	
Brookville, PA 15825	
Rape Crisis Center .....	(814) 677-7273
716 E. Second Street	
Oil City, PA 16301	
Stop Abuse For Everyone (SAFE).....	1-800-992-3039 or 226-8481
6 Grant Street	or 226-SAFE
Clarion, PA 16214	
Students Together Against Rape (STAR)	393-2720
Box 119, 251 Gemmell Student Center	x2720
Clarion County Counseling Center .....	1-800-672-7116 or 226-6252
214 South 7th Avenue	
Clarion, PA 16214	
Clarion County Sheriff's Office .....	226-7611
Clarion County Courthouse, Main Street	
Clarion, PA 16214	

Pennsylvania State Police .....	226-1710
209 Commerce Road	
Clarion, PA 16214	
Laurel Legal Services.....	226-4340
231 W. Main Street	
Clarion, PA 16214	
Equal Employment Opportunity Commission.....	(412) 644-3444
1000 Liberty Avenue, Room 2038A	
Pittsburgh, PA 15122	
Commonwealth Information Center .....	(800) 832-0784
402 Finance Building	
Harrisburg, PA 17120	TDD/TTY (800) 342-8040
Pennsylvania Human Relations Commission .....	(717) 787-4410
101 S. Second Street, Suite 300	
Harrisburg, PA 17101 OR	
300 Liberty Street.....	(412) 565-5395
Pittsburgh, PA 15222	
Pennsylvania Bureau of Equal Opportunity.....	(717) 787-1127
Division of Affirmative Action	
223 Health and Welfare Building	
Harrisburg, PA 17105	

Clarion University of Pennsylvania is committed to equal employment and equal educational opportunities for all qualified individuals regardless of race, color, sex, religion, national origin, affectional or sexual orientation, age, disability, or other classifications that are protected under Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and other pertinent state and federal laws and regulations. Direct equal opportunity inquiries to: Assistant to the President for Social Equity, 207 Carrier Administration Building, Clarion, PA 16214-1232, (814) 393-2109.