

Harassment and Discrimination Prevention Policy

Revised May 1, 2021

Clark University reaffirms its commitment to employ a diverse faculty and staff and to a policy of affirmative action directed at increasing the presence of minority group members in the belief that a diverse Clark community is essential to our educational goals.

It is the policy of Clark University that each qualified individual, regardless of race, color, sex, sexual orientation, pregnancy, religion, national origin, age as defined by law, or veteran or disability status, shall have equal opportunity in the education, employment or services of Clark University.

This policy applies to the entire Clark community and is designed to comply with both the spirit and letter of governing state and federal laws. It is expected that faculty, staff, students and others who act on behalf of Clark University will effectuate this policy.

It is the policy of Clark University that all our employees should be able to enjoy a work environment free of discrimination, harassment or violence, and shall have equal opportunity in the education, employment, and services of the University.

This policy refers to harassment and/or discrimination based on the following: (1) age, (2) race, (3) color, (4) national origin, (5) religion, (6) sex, (7) sexual orientation, (8) gender identity and/or expression (9) marital status, (10) disability, (11) veteran status, and (12) pregnancy. Harassment can include display or circulation of written materials or pictures degrading to either gender or to racial, ethnic, or religious groups; and verbal abuse or insults directed at or made in the presence of members of a racial, ethnic, or minority group. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexual assault, and other offensive verbal or physical conduct that is sexual in nature. Sexual harassment undermines the employment relationship by creating an intimidating, hostile or offensive work environment and will not be tolerated. . Please note: discrimination based on sex may violate Clark's Title IX Policy. Questions about which policy applies may be directed to the Title IX Coordinator. (<https://www.clarku.edu/offices/title-ix/>).

Harassment may also include behavior, which is personally offensive, impairs morale, and interferes with the work effectiveness of employees. Any harassment, discrimination or acts of violence directed at an employee by other employees will not be permitted, and shall be grounds for disciplinary action.

Individuals who believe they have been subjected to discriminatory practices or harassment should make it clear to the offender that such behavior is offensive to them and should immediately bring the matter to the attention of the appropriate manager and/or the Director of Human Resources . All allegations of illegal harassment or discrimination will be investigated. It is unlawful to retaliate against the person who has reported harassing incidents, or who has cooperated in such investigations. It is important for employees who feel that they have been harassed or discriminated against to report incidents to the Chief Human Resources Officer.

Anyone found to have engaged in illegal harassment discrimination will be subject to discipline, up to and including discharge.

In fulfilling their obligation to maintain a positive and productive work environment, all managers and supervisors are expected to immediately halt any harassment or discrimination of which they become aware by emphasizing the University Policy and, when necessary, by more direct disciplinary action.

VI. Additional Matters

A. Duty of Honesty: All Parties and witnesses are obligated to be completely honest during the course of the entire process set forth in the Sexual Offense Policy. Any person who knowingly makes a false statement – either explicitly or by omission—in connection with any part of the process may be subject to separate University disciplinary action.

B. Duty of Cooperation: All Parties and witnesses are obligated to cooperate with the Title IX Coordinator and any person charged with implementing the Sexual Offense Policy. Any person who knowingly interferes with the actions taken to implement the reporting, investigation, or resolution of matters under the Sexual Offense Policy may be subject to separate University disciplinary action.

C. Respect for Privacy: The University values the privacy of individuals involved in the reporting, investigation, and/or resolution of matters subject to the Sexual Offense Policy. There are situations in which it may be necessary for the University to override a request for privacy or confidentiality in order to meet its Title IX obligation. In the event circumstances result in the University overriding a request for privacy or confidentiality to meet its Title IX obligation, the University will do so with the utmost sensitivity and respect to the circumstances and the individuals involved.

VI. Time Periods

All claims of harassment and discrimination are unique which makes it difficult to define a specific timeframe when an investigation will be completed. Each claim will be investigated thoroughly and expeditiously. There are a number of variables involved in a harassment and discrimination investigation that will dictate how long an investigation will take. The University will inform the parties in writing the anticipated time period and, should that time period need to be extended. Deadlines that fall on a weekend or holiday will be extended to the following weekday.

VII. Retaliation

The University will not tolerate retaliation in any form against any persons for their participation or involvement in the reporting, investigation, and/or resolution of matters subject to the Harassment and Discrimination Prevention Policy and Process. The University will take appropriate steps to prevent and/or address retaliatory conduct immediately. Retaliation includes any acts or words that constitute intimidation, threats or coercion because of that person's (1) report of Policy violation(s); (2) assistance in reporting of Policy violation(s); (3) participation in any proceeding under the policy; or (4) protest of Policy conduct, and that would also deter a reasonable person from reporting or assisting in reporting a violation of the policy, participating in any proceeding under the policy, or protesting of the Policy. In addition, Clark prohibits intimidation, threats, coercion or discrimination, including filing charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same set of facts or circumstances as a report or complaint of sexual discrimination, and for the purpose of interfering with a right secured under Title IX. An adverse action does not include minor annoyances or another's lack of good manners as those actions will not deter a reasonable person from engaging in the process.

DEFINITIONS

Discrimination: Discrimination is an act or communication that unlawfully interferes with an individual's or group's ability to participate fully in the Clark University community on the basis of 1) age, (2) race, (3) color, (4) national origin, (5) religion, (6) sex, (7) sexual orientation, (8) gender identity and/or expression (9) marital status, (10) disability, (11) veteran status, and (12) pregnancy or other legally protected status.

Unlawful Harassment: Unlawful Harassment is unwelcomed or unsolicited speech or conduct based upon race, sex, religion, national origin, age, color, disability or other legally protected status that creates a hostile work or academic environment or circumstances involving quid pro quo. Unlawful harassment may occur in a variety of ways including, but not limited to verbal, physical, written or graphic materials, face to face conduct or online comments.

Sexual Harassment: "Sexual harassment" consists of any unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature. This includes, but is not limited to: submission to, or rejection of, such conduct that is made either implicitly or explicitly a term or condition of employment or participation in an education program; submission to, or rejection of, such conduct that is used as the basis for employment or academic decisions affecting a student, faculty, or staff member; such conduct that has the purpose or effect of interfering with a student, faculty, or staff member's work or academic performance; or such conduct that creates a hostile or intimidating work or academic environment and is severe, pervasive and objectively offensive.

a) Hostile Environment: Hostile Environment is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's work performance or a student's academic achievement.

b) Quid Pro Quo Harassment: Quid Pro Quo Harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing or (2) submission to or rejection of such conduct by an individual is used as the basis for employment or the evaluation of academic achievement decisions affecting such individual.