

Claflin University Policy #200.29

SEXUAL

- C. Appeals Representative - Individual(s) designated by the University President or such person's designee to preside over one or more appeals pursued under this policy.
- D. Complainant – An individual who is alleged as the victim of conduct that could constitute sexual harassment as that term is defined under Title IX.
- E. 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, subsequent or previous dating or sexual relationship is not sufficient to constitute consent. Conduct will be considered “without consent” if there is no clear consent, verbal or nonverbal. Consent may be withdrawn at any time during the sexual activity. Withdrawal of consent must be demonstrated by words and /or conduct that indicate a desire to end sexual activity. Once an individual has communicated withdrawal of consent, all sexual activity must end. In some situations, an individual's consent to sexual activity may be invalidated because of circumstance or

other party was incapacitated. If the answer to either of these inquiries is "YES," affirmative consent was absent. A respondent cannot rebut a charge of sexual assault or sexual harassment by merely asserting that they were drunk or otherwise impaired, and as a result did not know that the complainant was incapacitated. Alcohol, drugs, or other intoxicants do not negate or diminish the responsibility of an individual to obtain affirmative consent.

- J. Inculpatory Evidence – Evidence that shows, or tends to show, a person's involvement in an act, or evidence that can establish guilt.
- K. Investigator – Individual(s) designated by the President or the President's designee to investigate one or more formal complaints filed or signed under this policy.
- L. Respondent – An individual reported as the perpetrator of conduct that could

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- R. University Community - Includes all faculty, adjunct faculty, persons engaged in research, teaching assistants, administrators, staff, students, volunteers, and persons who conduct business with the University but are not employees. For the purpose of filing a formal complaint under this policy. This definition also includes any person attempting to participate in a University activity or program.

V. JURISDICTION

The University will respond promptly when it receives actual knowledge of sexual harassment occurring within the jurisdiction of this policy, i.e., sexual harassment in any education program or activity of the University occurring against a person in the United States. For purposes of this policy, the phrase “education program or activity” includes locations, events, or circumstances over which the University exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University. Jurisdiction under this policy extends to admissions and employment decisions of the University.

The University has other policies that address various types of misconduct that do not constitute sexual harassment (as defined in this policy) and thus that are not addressed by this policy and Title IX. If reported misconduct is not covered by this policy, such conduct will not be investigated or adjudicated by the University's Title IX Office. However, such reported conduct

VI. REPORTING PROCEDURES

The University has instituted procedures for the proper handling and treatment of sexual harassment allegations which involve conduct that occurred under an education program or activity and perpetrated against a person in the United States.

Prompt reporting is encouraged. Although the University does not limit the timeframe for reporting, members of the University community are encouraged to promptly report all incidents of conduct prohibited under this policy as soon as possible in order to maximize the University's ability to respond promptly and effectively. Any person may report sexual harassment, including sexual assault, dating violence, domestic violence, or gender-based stalking (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sexual harassment). Reporting should be in person, by mail, telephone, or electronic mail. In addition, reporting should contain the complainant's physical or digital signature using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Reporting Obligations of "Responsible Employees": When an individual tells a responsible employee about conduct that may constitute a violation of this policy, the responsible employee must promptly report to the Title IX Coordinator all relevant details about the alleged policy violation shared by the individual. This includes the names of the complainant and respondent, any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident as well as any other relevant information or physical and /or electronic documents.

Anonymous Reporting: Any member of the University community may report a violation of this policy by calling EthicsPoint (the school's reporting hotline) toll free at (877) 319-8243 or reporting online using the University's website, both available seven days a week, 24 hours a day. Although a complainant is able to make an EthicsPoint report anonymously, a complainant cannot initiate the Title IX grievance process anonymously. This is because the University is required to send written notice of Title IX allegations to both parties upon receiving a formal complaint. The written notice of allegations must include certain details about the allegations, including the identity of the parties, if known.

In addition, individuals may also contact the Office for Civil Rights (OCR):

U.S. Department of Education

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Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481

Fax: 202-453-6012

TDD: 800-877-8339

Email: OCR@ed.gov

Who to contact:

Students and employees who believe that they have been victims of sexual harassment 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 9-1-1.

Students, employees and other parties

Location: Tingley Hall, Suite S3-11

Dr. Cletra Peters

Vice President and Chief of Staff

This grievance process will enforce equal treatment of the complainants and respondents. No disciplinary sanctions will be imposed prior to a determination of responsibility for sexual harassment. However, the University reserves the right to enact emergency removal of any respondent (whether an employee, a student, or other person) from an education program or activity on an emergency basis, provided that the University (1) undertakes an individualized safety and risk analysis; (2) determines that an

prosecute a respondent, nor the outcome of any criminal prosecution, are determinative factors regarding whether a violation of University policy has occurred. Grievance proceedings under this policy may be carried out prior to, simultaneously with, or following external civil or criminal proceedings. At the request of law enforcement, the University may agree to defer its Title IX investigatory process until after the initial stages of a criminal investigation. The University will promptly resume its Title IX fact-gathering as soon as it is informed that law enforcement has completed the initial investigation.

A. Initial Response to an Allegation of Sexual Harassment

The Title IX Coordinator will promptly contact complainant in a manner that is not deliberately indifferent (i.e., not clearly unreasonable in light of the known circumstances) to:

- Discuss their right to request supportive measures;
- Consider the complainant's wishes with respect to supportive measures;
- Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and

1. Supportive Measures Available - 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, or mutual restrictions on contact between the parties;
- 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;
- Providing counseling and / or medical services;
- Providing academic support service, such as tutoring; and
- Arranging for complainant / respondent to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the academic record.

Explain to the complainant the process for filing a formal complaint that will not restrict rights protected under the U.S. constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, as a way of responding in a non-deliberately indifferent manner. The complainant will never be pressured into filing a formal complaint, or participating in a grievance process.

B. Formal Complaint Procedure

may erode, memories may fade, or the respondent may no longer be affiliated with the University.

The formal complaint form is found in Form #1 of this document.

The Title IX Coordinator as well as all investigators, hearing officers, and appeal representatives will be trained and free from any conflict of interest. The investigator(s) and hearing officer(s) must confirm th

prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution and resume the grievance process with respect to the formal complaint.

Parties who choose this option will receive notice of the allegations, their rights and information about how to withdraw from the process and resume the grievance process. To withdraw, either party will have to submit a written request to withdraw from the informal process and then the party will be eligible to resume the grievance process.

The informal resolution procedure may be conducted by an assigned mediator, the Title IX Coordinator, or any person trained to facilitate the informal resolution process. The person assigned may not have a conflict of interest or bias either for or against

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Hearing Officer(s) – At the live hearing, the hearing officer(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. The cross-examination at the live

- New evidence that was not reasonably available at the time of determination or dismissal that could affect the outcome; or
- The Title IX Coordinator, investigator or hearing officer had a conflict of interest or bias that affected the outcome of the matter.

F. Appeals of the Formal Complaint Procedure

The complainant or the respondent has a right to appeal a decision of the formal complaint procedure based upon any of the Grounds for Appeal identified in Section VII(E) of this policy. Appeals must be submitted in writing to the Office of the President of the University within seven (7) working days (excluding weekends and University holidays) after receipt of the final Determination Letter from the hearing officer(s). Decisions not appealed within such time are deemed final.

Once an appeal is initiated, the non-appealing party will be notified of the appeal and provided an opportunity to submit a written response within five (5) workdays

mandatory training, change in job responsibilities, demotion or other adverse employment action, and /or leave without pay.

provided false information regarding the complaint or investigation, disciplinary action may be pursued under other University policies, including for example the Student Code of Conduct, 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, including without limitation any of those disciplinary sanctions identified in Section VIII of this policy.

X. EDUCATION AND PREVENTION

Education is an essential component in the prevention and elimination of sexual harassment. To accomplish an adequate educational program, the University shall:

- Educate members of the University community on what constitutes prohibited conduct.

- Inform members of the University community of this policy and training programs to assure their implementation.

- Ensure that the University has sufficiently trained the designated staff to carry out educational programs and training regarding the procedures established by this policy.

4. 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 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

5. E. Contact

If you are concerned that the University has not met its obligation under this policy, please contact Dr. Teresa Hardee Boone by email at thardeeboone@claflin.edu or by telephone at 803-535-5462.

Form #1:

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

Name/Status	Address	Telephone #

This correspondence is intended to ensure a bias-free Title IX hearing. The correspondence should be provided by the Title IX Coordinator to the designated Title IX hearing officer.

Dear [Recipient's Name]:

I am writing to formally request the conduct of a Title IX hearing into a matter involving [briefly describe the nature of the complaint]. This request is made in accordance with Claflin University's policies and procedures and is intended to ensure a fair and unbiased hearing into the matter.

To maintain the integrity of the hearing process, it is imperative that the hearing be conducted in a fair manner. To this end, the hearing must be guided by the hearing officer as follows:

1. An Impartial Hearing Officer: You have no personal or professional connection to the parties involved in this matter.
2. Objective Consideration of Evidence: You will objectively consider evidence including witness testimonies, documents, and any other relevant information, without prejudice.
3. No Presumptions: You will approach the hearing with an open mind and avoid making any assumptions about the guilt or innocence of any party.
4. Confidentiality: You will maintain the strict confidentiality of the Title IX case to protect the privacy and reputation of all involved parties.
5. Timely Resolution: You will strive for a timely hearing of the matter, while not compromising the thoroughness and fairness.
6. Equitable Treatment: You will ensure that all parties involved are treated equitably throughout the process and have equal opportunities to present their perspectives and evidence.
7. Compliance with Title IX Policies and Procedures: You will ensure that all steps in the investigation process comply with institutional policies.

By your signature, please provide agreement of compliance with the above principles in hearing the case of Complainant, _____ and Respondent, _____.

Signature: _____ Date: _____

Sincerely,

Title IX Coordinator's Name and Contact Information

Form #4: Title IX Review of Evidence Statement/Decision/Determination Report

I understand the confidentiality of the Title IX investigation documents that I will review.

I am permitted to take manual notes but cannot copy, take pictures, or use any other method to duplicate the documents that I review.

By providing the information requested and signing below, I acknowledge my understanding of and agreement with these requirements which are intended to ensure the confidentiality of Title IX documents.

Role in Investigation _____

*Complainant, Advisor for Complainant; Respondent; or Advisor for Respondent

Printed Name _____

Signature _____

Date _____

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