

## Harassment and Sexual Misconduct Policy Clarifications

### Introduction

Clarkson is committed to maintaining a work environment free from sexual harassment, which is one form of employment discrimination. These clarifications are one component of the Employer's commitment to a discrimination-free work environment.

### Policy Clarifications:

1. Our Policy applies to all employees. It also applies to individuals who are not employees of the Employer but are employees of contractors, subcontractors, vendors, consultants, and other persons who provide services in the Employer's workplace, such as interns and temporary employees [*Employer should list other pertinent examples*].
2. Sexual harassment is not tolerated by Clarkson University and is prohibited by our Policy. Our Policy prohibits not only behavior that constitutes unlawful harassment, but also other inappropriate or unprofessional behavior that may reasonably be considered offensive or otherwise inappropriate. Employees and other individuals covered under our Policy will be subject to disciplinary or other corrective action for any violations of our Policy.
3. No person covered by our Policy shall be subject to adverse employment action because he/she makes a good faith report of an incident of sexual harassment, or provides information, or otherwise assists in any investigation of a sexual harassment complaint. Any person covered by our Policy, who retaliates against anyone involved in a sexual harassment investigation, is in violation of our Policy and subject to remedial or disciplinary action.
4. Clarkson University will conduct a prompt, thorough, fair, and confidential investigation, consistent with our Policy, in response to any complaint about sexual harassment. The Employer may also investigate other circumstances of inappropriate conduct occurring in its workplace or affecting the terms and conditions of employment for its employees or other individuals working in its workplace. The Employer will take effective corrective action whenever sexual harassment or other inappropriate conduct is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

### What Is "Sexual Harassment"?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment can consist of threats, derogatory comments, signs, jokes, pranks, intimidation, physical contact, violence, or other conduct which is of a sexual nature, or which is directed at an individual because of that individual's sex, where the conduct is so severe and pervasive as to alter the terms of employment for the individual subject to the harassment.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

#### Examples of sexual harassment

The following is a list of some of the types of acts that may constitute sexual harassment:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employees' body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions.
- Sexually-oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience.
- Written conduct such as authoring threatening, derogatory or offensive letters, e-mails, text messages, or social media posts.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes sexual displays on workplace computers or cell phones in the workplace.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or the status of being transgender.

## **Who can be a target of sexual harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassers can be a superior, a subordinate, a coworker or anyone else in the workplace, including an independent contractor, contract worker, vendor, client, customer, or visitor.

## **Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business, at employer-sponsored events, or other occasions outside work. Calls, texts, emails, and social media usage by employees containing inappropriate messages, language, or graphics may also constitute or contribute to unlawful workplace harassment, even if they occur away from the workplace, on personal devices, or during non-work hours.

## **What is “Retaliation”?**

Retaliation includes any conduct, whether or not in the workplace or employment-related, which might deter a reasonable person from making or supporting a charge of discrimination or harassment and is directed at someone who engages in protected activity. Protected activity includes opposing a discriminatory practice, making a good faith report of a suspected violation of our policy, filing a harassment complaint, participating in an investigation or proceeding of such a report or complaint, or encouraging a fellow employee to make a report.

## **Reporting Sexual Harassment**

**Preventing sexual harassment is everyone’s responsibility.** Clarkson University cannot prevent or remedy sexual harassment unless it knows about it. Any employee or other person covered by our policy, who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to the Title IX Coordinator or deputy Coordinator in Human Resources. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to Title IX Coordinator or Deputy Coordinator in Human Resources. If an employee believes the supervisor or manager is not taking appropriate action, the employee should report this inaction to the Title IX Coordinator or Deputy Coordinator in Human Resources. If an employee believes that their supervisor or manager violated our policy, then the employee should report the matter to a higher-level manager, or to Title IX Coordinator or Deputy Coordinator in Human Resources.

Reports of sexual harassment may be made verbally[315-268-4208 or 315-268-7608] or in writing. A form for submission of a written complaint is attached to our policy, and all employees are encouraged to use this complaint form, but using the form is not required. Employees who report sexual harassment on behalf of another person should state clearly that the complaint is made on another person’s behalf.

The availability of this reporting procedure does not preclude individuals who believe they are being harassed from promptly advising the offender that their behavior is unwelcome and requesting that it be discontinued.

## **Supervisory Responsibilities**

Any supervisor or manager who receives a complaint or information about suspected sexual harassment, or observes conduct that may be sexually harassing behavior **is required to report such suspected sexual harassment to Title IX Coordinator or Deputy Coordinator in Human Resources.**

In addition to being subject to discipline if they engaged in sexually harassing conduct or retaliation themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

### **Investigation of Sexual Harassment**

All reports, complaints or other information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely and thorough manner commensurate with the nature of the complaint, and will be confidential to the extent possible.

In conducting a fair and impartial investigation, the Employer's procedures will include these "due process" protections: the Employer will provide appropriate notice of the allegations to anyone who is the subject of a harassment complaint and an opportunity to provide a response to the allegations. Complainants and witnesses will be provided with an appropriate opportunity to present relevant information including documents relevant to the investigation. The Employer may adapt and modify the investigatory procedure, in its discretion, based on the nature of the complaint and the conduct at issue.

All employees and other individuals covered under our policy are required to cooperate, as needed, in an investigation of suspected sexual harassment. Employees and other individuals who participate in any investigation are protected from retaliation.

All persons involved in the reporting and investigation of harassment are obligated to keep the information pertaining to the investigation confidential to the maximum extent possible, to protect the privacy of those involved in the investigation and to allow the Employer to conduct an objective and fair investigation.

If the Employer determines that our policy has been violated, it will take effective remedial action commensurate with the circumstances. Any employee who has been found by the Employer to have harassed another employee will be subject to corrective action, up to and including discharge where appropriate. If it is concluded that a non-employee has subjected an employee or other person protected by our policy to conduct in violation of our policy, prompt and effective action will be taken to stop the harassment and deter any future harassment.

The Employer will notify the individual who was subject to the reported conduct and the person who filed the complaint, if different, of the conclusion of its investigation, and will follow up with that individual as appropriate under the circumstances.

### **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by Clarkson University but is also prohibited by state, federal, and, where applicable, local law. In addition to the procedures described in our policy, individuals may choose to pursue legal remedies with the following governmental entities:

The New York State Division of Human Rights (DHR) enforces the Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., which prohibits sexual harassment in employment in New York State, and protects employees, and other individuals working in an employer's workplace. A complaint alleging a violation of the Human Rights Law may be filed either with the DHR, subject to a one-year statute of limitations, or in New York State Supreme Court, subject to a three-year statute of limitations.

If unlawful discrimination is found after a hearing, the DHR or the court may award relief, which may include requiring the employer to take action to stop the harassment, to redress the damage caused, including reversing an unlawful employment action, and paying monetary damages, attorneys' fees, and civil fines. The DHR can be contacted at (888) 392-3644 or at [www.dhr.ny.gov](http://www.dhr.ny.gov).

The U.S. Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An employee must file a complaint with the EEOC within 300 days from the conduct giving rise to the complaint. The EEOC investigates complaints, and may pursue a claim in federal court on behalf of the complaining party, or issue a Right to Sue Letter that allows an individual to pursue his/her claims in federal court. Federal courts may award remedies if discrimination is found to have occurred. The EEOC can be contacted by calling 1-800-669-4000 (1-800-669-6820 (TTY)), or at their website: [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov). If an individual files an administrative complaint with the DHR, the DHR will file the complaint with the EEOC to preserve the individual's right to proceed in federal court.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime, and it may be appropriate to report such conduct to the local police department.

### **Other Types of Harassment**

The Employer also prohibits discrimination or harassment on the basis of race, color, creed, ethnicity, disability, religion, national origin, military status, age, gender, arrest record, veteran status, sexual orientation, marital status, familial status, domestic violence victim status, criminal history, citizenship, predisposing genetic characteristics, genetic information, or any other category protected by law. For more information, see Non-discrimination Policy.