Employee Guidance: Role as a Responsible Employee

This guide provides information about the important role of responsible employees, our faculty and staff, who are mandated by law to promptly report any information they encounter regarding a possible sexual offense. This responsibility is separate from the duty of Campus Security Authorities to report crime statistics quarterly. In addition to this guide, important information can be found on the Campus Safety and Security webpage under “Sexual Offenses Resources”.

Title IX of the Education Amendments of 1972 defines “responsible employees” as those employees who:

- have the authority to take action to redress harassment;
- have the duty to report to appropriate school officials’ sexual harassment or any other misconduct by students or employees; or who
- a student could reasonably believe has this authority or responsibility.

At Clark, all employees, including student resident assistants “RAs” and teaching assistants “TAs”, are responsible employees. As such, they are required by Title IX and university policy to report any information they have concerning a possible sexual offense (which is defined in the Sexual Offenses Policy, and the Student Handbook, pages 21-23). The Title IX process and procedures for students can be found on pages 31-33. This means that information about sexual harassment, sexual violence, or other sexual offense shared with a faculty or staff person is not confidential.

The Office of Civil Rights (OCR) deems a school to have notice of student-on-student sexual offense if a responsible employee knew, or in the exercise of reasonable care should have known, about the sexual offense. This designation requires responsible employees to report information regarding students who may have experienced any conduct that is prohibited under the Sexual Offenses Policy that might have occurred while a student at Clark. This includes information shared with the responsible employee in person, electronic communications, or in class assignments or discussions.

Responsible employees are often the first to witness or hear from a student or employee about behavior that may constitute a sexual offense. When a responsible employee has such

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1 Exceptions to this designation are limited to the few faculty who are trained and appointed to be Confidential Sources, and the staff of the Center for Counseling and Personal Growth and the medical providers at the Health Center.
information, the college is deemed to possess that knowledge and is obligated to take actions intended to stop the behavior, prevent its recurrence, and remedy its effects. By reporting the information to the Title IX Coordinator, the responsible employee enables the college to fulfill its legal obligation to assess the information and determine what action is called for. In this way, responsible employees contribute to a learning environment where sexual offenses are discouraged and promptly addressed.

GUIDANCE FOR RESPONSIBLE EMPLOYEES

Be aware and receptive. Information about a sexual offense can come to a responsible employee’s attention in many ways. A student might disclose it in a writing assignment; a responsible employee might witness physical or verbal abuse; a student might request an extension of an assignment deadline because of a concern like domestic violence. When such information comes to a responsible employee’s attention, they should promptly contact the Title IX Coordinator, even if the behaviors took place off campus or months ago.

Revealing an experience of a sexual offense can be very difficult. Respect the trust that person has placed in you. The Title IX Coordinator can determine later what the facts indicate about any possible violations of policy. **NOTE:** This is not the role of the responsible employee.

- **Example:** A student who approaches a faculty or staff member to discuss a single event that may or may not be harassment and the student describes the situation as an unwanted advance. The employee’s role as the responsible employee is to report the facts disclosed to the Title IX Coordinator who determines, through fact-finding, if there are any possible violations of the student code of conduct or any other applicable laws or policies. The employee cannot determine whether the facts disclosed were harassment or not. Their duty is to report – even if they do not believe there is a violation.

Before a student reveals information that they wish to keep confidential, a responsible employee should make every effort to ensure that the student understands their reporting obligation, the student’s option to request that the school maintain their confidentiality, and the student’s ability to share the information confidentiality with a counseling, advocacy, health, or other confidential source.

If the student shares information with you, as a responsible employee you must report **all relevant details** you possess about a possible sexual offense to the Title IX Coordinator. This includes the names of the alleged perpetrator (if known), the student who experienced the alleged sexual offense, other students involved, as well as relevant facts, including the date, time, and location.

Let the student know that there are resources both **on** and **off campus** for **confidential assistance**. The intent is not to discourage disclosure to you, but to empower the person to control what to disclose and to whom. A victim who speaks to a confidential source must
understand that, if the victim wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

Confidential sources can still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A victim who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated.

If the student wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the person that the University will consider the request, but cannot guarantee that the University will be able to honor it. Their request for confidentiality will be considered by the Title IX Coordinator, taking into consideration the safety of the community and possible legal obligation the university may have to report to law enforcement. You must also inform the Coordinator of the student’s request for confidentiality.

You can inform the student that the university will remain ever-mindful of their well-being, can work with them to create a safety plan, and will take appropriate steps to protect them from retaliation. Retaliation against complainants, affected parties, or responsible employees will not be tolerated.

Do not attempt to “investigate.” Accept information a reporting party divulges. Avoid asking probing questions to minimize further trauma to an affected party.

The Campus Safety and Security webpage mentioned earlier includes a “rights and options” link for both the victim and the accused. It contains information about how a student or employee can get assistance that is confidential without triggering action by university officials or law enforcement. In all but exceptional cases, information a student shares with an appointed faculty Confidential Source, the staff of the Center for Counseling and Personal Growth, and the medical providers at the Health Center is confidential and will not be shared with university officials.

A reporting party may choose to stop divulging information to you at any time without prejudice, thereby limiting the information you report. However, confidentiality is only possible before they divulge information that must be reported by a responsible employee, i.e., any information suggesting possible sexual harassment or sexual violence.

As a responsible employee, you must maintain confidentiality, which means do not share the information with parties other than the designated university officials, except as authorized by those officials. When reporting, include your name, job title, contact information, and all information about the concern. You must include the names of the persons involved if you have them, even if they request their name be withheld.
If you have any additional questions, contact the Title IX Coordinator Sheree Marlowe at smarlowe@clarku.edu or (508) 793-7351.

References:

- Clark University's Sexual Offenses Policy
- Dear Colleague Letter, April 4, 2011
- OCR Questions and Actions on Title IX and Sexual Violence, April 29, 2014
- Dear Colleague Letter, April 24, 2015
- Title IX Resource Guide, April 2015