Harassment and Discrimination Grievance
Procedures for Complaints Against Students

Updated February 7, 2014
GRIEVANCE PROCEDURES

These procedures describe an internal method for seeking redress for alleged violations of the University’s Harassment and Discrimination Prevention Policy. Complaints of discrimination, harassment or related retaliation filed under these procedures will be investigated and resolved as promptly and with as much confidentiality as possible. This process should insure quicker review of complaints than can normally be obtained through state or federal procedures. Complaints where both parties are not current Clark employees or students of the University, even if one or both are former faculty, staff, or students, will not be eligible for this review procedure.

The University prohibits retaliation against any individual who reports acts of discrimination or harassment or participates in an investigation of such reports. Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of the Harassment and Discrimination Prevention Policy and will be subject to disciplinary action.

The University has created the following procedures for the resolution of grievances alleging violation of its Harassment and Discrimination Prevention Policy involving students. While these procedures provide sanctions for speech and behavior that violate state and federal law, importantly, they also describe ways of informally resolving conflicts and disagreements involving students who, at the time of the alleged violation, are enrolled in Clark University. The procedures are intended to provide a fair, prompt, and reliable mechanism for determining whether the policies of Clark University have been violated and, if so, to provide appropriate resolution and/or remediation.

Sexual offenses are prohibited under Massachusetts and federal laws. Students, faculty or staff have a right to bring criminal charges for cases involving sexual assault or any other criminal sexual misconduct. Pursuing resolution under these grievance procedures does not preclude one from pursuing a criminal complaint now or in the future, and vice versa.

These procedures are not intended to inhibit or restrict the free expression or exchange of ideas. The procedures address unlawful discriminatory or harassing behavior. The University provides several options for addressing such issues: (1) Reporting an Incident and Informal Resolution of Conflicts; and (2) Filing a Complaint. Each of these procedures is outlined below.

Definitions:

- The term “Complainant” is used throughout this document to refer to persons who either report incidents or file signed complaints regarding harassment or discrimination. The complainant does not need to be the subject of the harassment or discrimination.
- The term “Respondent” is used to refer to the person against whom a complaint has been made.

1. Reporting an Incident and Informal Resolution of Conflicts:

In a diverse community, disagreements and conflicts of various degrees of seriousness are inevitable. Often, the most effective avenue for informal resolution of complaints is direct conversation with the person or persons alleged to have caused the offense.
Reasoned discussion of the issue will often bring about a resolution and new understanding. While informal resolution is an option for most cases of harassment or discrimination, Title IX requirements specifically state that informal resolution cannot be used for cases of sexual assault or sexual violence.

**Suggestions for Individual Action**

A. In circumstances not jeopardizing one's personal safety, job, or academic status, communicate clearly to the offender that the behavior is not welcome, and should cease immediately. This can be done verbally or in writing.

B. Keep a written record documenting as precisely as possible what happened, when the incident took place, how you responded, how you felt after the incident, and any other information which may be helpful later. Should there be any witnesses, include their names in documentation of the incident.

C. Report the situation to the University official or supervisor most directly involved with either the complainant or the person complained about.

D. Seek advice on how to deal with the situation from the Dean of Students Office.

E. Seek support from a close friend or trusted associate.

When a direct conversation is not a desired or permitted option, the following members of the University community are designated to discuss complaints against students:

- The Dean or Associate Dean of Students
- The Director of Residential Life and Housing (undergraduate students)
- The Dean of Graduate Studies (graduate students)
- The Provost (undergraduate/graduate students)

If, after discussion with one or more of these persons, the complainant decides to pursue the matter on her or his own, she or he is free to do so. Alternatively, the complainant may request that the Dean of Students or Dean of Graduate Studies discuss the allegations informally with the respondent in an attempt to end the alleged discrimination or harassment and resolve the issue. If there is a resolution acceptable to all parties, the matter will not proceed further.

The University may proceed without permission of the complainant if: (1) repeated complaints about the respondent have been received; or (2) the University believes it is in its best interest to do so.

Complaints under informal procedures will be kept confidential, to the extent practicable, except as compelled by law. In some cases, confidentiality cannot be maintained based on several factors, including the severity of the alleged incident, the nature of the parties involved (e.g. professor or student), and if this complaint falls within a pattern of behavior warranting intervention or action on behalf of the University. Disclosure of the complaint’s existence or substance will be limited to those who, in the interests of fairness and problem resolution, have an immediate need to know.

Informal procedures generally will involve efforts to actively arrive at a resolution that both the complainant and the respondent can agree upon. The respondent, thus, will be informed of the existence and nature of the complaint and will have an opportunity to respond.
Failure to respond to a complaint, or refusal to participate in informal resolution, will not be considered as an admission of responsibility during any formal proceedings that might arise.

All members of the Clark community are expected to cooperate in addressing harassment or discrimination complaints.

2. **Filing a Complaint**

A complaint may be filed when it appears that good faith efforts to informally resolve a disagreement are unsatisfactory, unsuccessful, or inappropriate.

Any member of the Clark community who believes he/she has been the object of discrimination, harassment or inappropriate behavior by a Clark student may bring a complaint to the Dean of Student's office (if the complaint is against an undergraduate student) or the Dean of Graduate Studies (if the complaint is against a graduate student). Merely discussing an incident with the dean does not commit one to making a complaint; however, if the University deems it appropriate, it may take further action on its own initiative or if required to do so by law. Students are advised to consult the Code of Student Conduct and the University Judicial Board (UJB) procedures as outlined in the student handbook (for undergraduate students) or the Code of Conduct and Graduate Judicial Board procedures as outlined in the Graduate Student Handbook (for graduate students).

1) A complaint may be made orally or in writing and should include the following:

   a) Identification of the person(s) injured by the alleged harassment or discrimination.
   b) Identification of the person(s) alleged to have committed the harassment or discrimination.
   c) The dates over which alleged conduct occurred; and where the incident(s) occurred.
   d) A clear and chronological description of the incident(s) with sufficient information to understand the factual basis for the complainant's belief that harassment or discrimination occurred.
   e) Identification of any witnesses or person’s having direct knowledge of the alleged harassment or discrimination.
   f) The complainant’s preferred remedy of the complaint.

Once a complaint is filed, the initial decision as to whether it merits review under these procedures will be made by the Dean of Students (if the complaint is against an undergraduate student), or the Dean of Graduate Studies (if the complaint is against a graduate student) or their designees. A complaint will be dismissed at this stage if it does not warrant review because the action complained of does not constitute alleged harassment or discrimination; because the alleged behavior does not constitute a violation of the policy; or because the speech or expression complained of does not violate the law. The complainant will be informed in writing of the decision within 15 business days of receiving the complaint. No complaint will be accepted that does not pass this initial review. Appeals of this decision may be addressed to the Provost within 10 business days after the written decision has been issued. The complainant has the responsibility to demonstrate, by a preponderance of evidence, that the complaint is valid.

Should the Dean of Students or the Dean of Graduate Studies conclude that the complaint should go forward to the appropriate review board, he/she will notify the
respondent, provide the respondent with a copy of the complaint, and advise him/her about the procedures.

After the appropriate review board has conducted a hearing it will determine whether the respondent is in violation of University policy. The review board will send a written recommendation to the Dean of Students or the Dean of Graduate Studies. If the review board finds the student in violation of University policy, the following sanctions may be recommended to the dean:

   a) letter of warning;
   b) probation;
   c) individual sanctions (such as counseling, restitution, community service, removal from housing);
   d) suspension;
   e) dismissal;
   f) expulsion

If the review board finds no violation of University policy, the complaint will be dismissed, and the dean will send a written decision and an explanation of the decision to the complainant and the respondent. Request for an appeal by either the complainant or the respondent may be made to the Provost within 30 days after the initial decision is communicated by the dean on the grounds of procedural error or new information not available at the time of the hearing. The Provost’s decision will be final.

**Principles Guiding these Procedures:**

a) **Withdrawal of Complaints**

   A complainant may withdraw a complaint after it has been filed. The Dean of Students or the Dean of Graduate Studies will inform all parties previously notified of the complaint of its withdrawal. Such withdrawal will not prevent the University from taking further action on its own initiative if it deems it appropriate to do so or if it is required to do so by law.

b) **Failure to Cooperate**

   A respondent will not prevent a complaint from going forward by his/her silence or failure to cooperate. Failure to cooperate may result in the investigation proceeding solely on the basis of the available evidence.

c) **Confidentiality**

   The University seeks to prevent and eliminate harassment and discrimination on campus by encouraging students, faculty, and employees to promptly report complaints about such issues. Situations involving alleged discrimination or harassment demand special attention to issues of confidentiality. Confidentiality will be maintained in proceedings to the extent that it is practicable. In some cases, confidentiality cannot be maintained based on several factors, including the severity of the alleged incident, the nature of the parties involved (e.g. professor or student), and if this complaint falls within a pattern of behavior warranting intervention or action on behalf of the University. All documents should be marked confidential, and all recipients will be responsible for keeping them confidential. All statements and discussions should be also considered confidential.
d) **Protection Against Retaliation**

It is unlawful to retaliate against a person for filing a complaint of harassment or discrimination; or for cooperating in an investigation of such a complaint. Complaints of such retaliation should be addressed to the Dean of Students or Dean of Graduate Studies (as appropriate), who will review and investigate the alleged retaliation.

e) **Deliberate Fabrication of Evidence**

If at the conclusion of proceedings, it is determined that a complainant, respondent, or witness has knowingly given false or misleading information, the University may recommend the range of penalties up to and including dismissal from the University.

f) **Protection of Respondents**

Because personal and professional reputations are involved, in the event allegations that a member of the community violated the University's policy are not substantiated, reasonable steps as determined may be taken to assist in restoring the reputation of the respondent if it is damaged by any proceedings.

g) **Record Keeping**

The Dean of Students of Dean of Graduate Studies will maintain confidential records of all complaints received. Such records will contain the complainant's and respondent's names, dates, outcome of the proceedings, and any sanctions imposed.

h) **Other Remedies**

These procedures are not intended to impair or limit the right of any individual to seek a remedy available under state or federal law. If, however, a complainant initiates or pursues redress outside the University, the University will not be obliged to continue processing the complaint through these procedures and thus may terminate such proceedings.

i) **Preservation of Authority**

Nothing in these procedures is intended in any way to detract from or impede the authority and responsibility of any administrative officer, supervisor, or authorized agent of the University in the day-to-day exercise of his/her authority as it normally exists apart from these procedures.

**Support Services**

Clark students are encouraged to make use of support services provided through Counseling Services at 501 Park Avenue, or by calling 508-793-7678 to schedule an appointment.

The University provides outside support services at no cost to faculty and staff through the Employee Assistance Program (EAP). Faculty or staff involved in harassment and/or discrimination situations are encouraged to use the services of LifeScope which is available 24/7 at 1-800-227-2195.
Whether you decide to file a complaint or just need to talk, confidentiality will be maintained in informal and formal proceedings to the extent practicable.

Dean of Students  
155 Woodland Street  
508-793-7423

Dean of Graduate Studies  
Academic Affairs, Geography Building  
508-793-7676

Provost  
Academic Affairs, Geography Building  
508-793-7673

**Title IX Coordinator**

In compliance with Title IX of the U.S. Department of Education’s Office of Civil Rights, the University has appointed Jacqueline Capomacchio, Director of Human Resources/Affirmative Action, as the University’s Title IX Coordinator. Jacqueline can be reached at:

950 Main Street  
Worcester, MA 01610  
508-793-7294  
[capomacchio@clarku.edu](mailto:capomacchio@clarku.edu)

Other members of the Title IX team include:
- Athletics: Trish Cronin, Interim Athletic Director  
- Academic Affairs: The Provost or his/her designee  
- Police: Sergeant Lauren Misale, Sexual Assault Investigator  
- Student Affairs: Denise Darrigrand, Associate Dean of Students  
- Business Office: Paul Wykes, Business Manager

**State and Federal Agencies:**

The Massachusetts Commission against Discrimination (MCAD) is charged by the state as the agency to handle formal complaints of unlawful harassment or discrimination. The nearest local office is located at 436 Dwight Street, Second Floor, Room 220, Springfield MA 01103 (413-739-2145).

The federal agency charged with handling unlawful harassment or discrimination complaints by employees is The Equal Employment Opportunity Commission (EEOC) located at John F. Kennedy Federal Building, 475 Government Center, Boston MA 02203 (617-565-3200 or 1-800-669-4000).

Complaints may also be filed directly with the Office of Civil Rights at either of the following locations:

**Headquarters:**

Leon Rodriguez, Director  
Office for Civil Rights  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.
Region I - Boston (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)
Peter Chan, Regional Manager
Office for Civil Rights
U.S. Department of Health and Human Services
Government Center
J.F. Kennedy Federal Building - Room 1875
Boston, MA 02203
Voice phone (617) 565-1340
FAX (617) 565-3809