

Clinton Community College Policy and Procedure

Subject	Date	Number
Policy Against Sexual Harassment and Misconduct and Reporting Procedure	08/16/2016	
	Revised 03/27/2018	

Policy:

Clinton Community College is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment and/or educational opportunities without being subject to sexual harassment or sexual misconduct of any kind in the workplace or educational environment.

Sexual harassment is a form of sex discrimination which is unlawful in the workplace under Title VII of the Civil Rights Act of 1964, as amended, and the New York State Human Rights Law. Under Title IX of the Educational Amendments of 1972, sexual harassment also is prohibited in the provision of educational services and protects students and employees from sexual harassment.

Sexual harassment can occur between males and females, or between persons of the same sex. Sexual harassment will not be tolerated at Clinton Community College. The College has implemented measures to address and prevent sexual harassment and is taking additional affirmative steps to increase awareness of, and sensitivity to, all forms of sexual harassment in order to maintain a workplace and learning environment free of its harmful effects.

All employees/students, including but not limited to, Clinton Community College officials and supervisory personnel, are responsible for ensuring an environment free from sexual harassment and sexual misconduct. All employees and students will be held responsible and accountable for avoiding or eliminating inappropriate conduct that may give rise to a claim of sexual harassment or sexual misconduct. Employees and students are encouraged to report violations to the Title IX Coordinator, in accordance with the Complaint Procedure set forth in this Policy. Officials and supervisors must take immediate and appropriate corrective action when instances of sexual harassment and/or sex misconduct come to their attention to assure compliance with this Policy.

Each employee and student is assured pursuant to Section 9 of this Policy, that retaliation against an individual who makes a complaint or report under this Policy is absolutely prohibited and constitutes, in and of itself, a violation of this Policy.

Scope of Policy: This Policy applies to all Clinton Community College students, employees and all personnel in a contractual or other business relationship with Clinton Community College including, for example, applicants, temporary or leased employees, independent contractors, vendors, consultants, volunteers and visitors. Depending on the extent of Clinton Community College's exercise of control, this Policy may be applied to the conduct of non-employees with respect to sexual harassment and/or sex discrimination of Clinton Community College employees in the workplace and students in the educational environment. This Policy applies with equal

force on College property as it does at College-sponsored events, programs, and activities, which take place at off-campus premises.

Policy Objectives: By adopting and publishing this Policy, it is the intention of the Clinton Community College Board of Trustees to:

- Notify employees and students about the types of conduct, which constitute sexual harassment or sexual misconduct prohibited by this Policy;
- Inform employees and students about the complaint and resolution procedures established by the College, which enable employees/students who believe they are victims of sexual harassment or sexual misconduct to submit a complaint, which will be investigated by the College;
- Clearly advise all supervisory staff, administrators, employees, and students that sexual harassment of individuals and sexual misconduct is strictly prohibited and no such person possesses the authority to harass; and
- Notify all employees and students that the College has appointed a Title IX Coordinator who is specifically designated to receive complaints of sexual harassment or sexual misconduct and ensure compliance with this Policy.

Definitions:

“Sexual Harassment:” In accordance with applicable law, sexual harassment is generally described as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment or academic benefit; or
2. Submission to or rejection of the conduct is used as the basis for an employment or academic decision affecting the person rejecting or submitting to the conduct; or
3. The conduct has the purpose or effect of unreasonably interfering with an affected person’s work or academic performance, or creating an intimidating, hostile or offensive work or learning environment.

Sexual harassment can include physical touching, verbal comments, non-verbal conduct such as leering or inappropriate written or electronic communications, or a combination of these things. Examples of sexual harassment may include, but are not limited to:

- Seeking sexual favors or a sexual relationship in return for the promise of a favorable grade or academic opportunity;
- Conditioning an employment-related action (such as hiring, promotion, salary increase, or performance appraisal) on a sexual favor or relationship; or

- Intentional and undesired physical contact, sexually explicit language or writing, lewd pictures or notes, and other forms of sexually offensive conduct by individuals in positions of authority, co-workers or student peers, that unreasonably interferes with the ability of a person to perform his or her employment or academic responsibilities.

Sexual harassment may consist of repeated actions or may arise from a single incident if sufficiently severe. What constitutes sexual harassment under this policy will be decided on a case-by-case basis and depends on the specific facts and the context in which the conduct occurs. Some conduct may be inappropriate, unprofessional and/or subject to disciplinary action, but might not fall under the definition of sexual harassment. The specific action taken, if any, depends on the nature and gravity of the reported conduct.

“Sexual misconduct or violence” is strictly prohibited under law and under this policy. Sexual violence involves physical and/or sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to his/her age, use of drugs or alcohol, or due to a mental and/or physical disability whether permanent or temporary in nature. Sexual misconduct or violence includes but is not limited to: rape, sexual assault, sexual coercion, sexual threat, domestic violence, dating violence, stalking or cyberstalking with intent to sexually harass;

1. **Affirmative consent** is a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Consent is active, not passive. Silence or lack of resistance cannot be interpreted as consent. Seeking and having consent accepted is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression. Consent may be initially given but withdrawn at any time. When consent is withdrawn or cannot be given, sexual activity must stop. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily restrained, if any of the parties are under the age of 17, or if an individual otherwise cannot consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
2. **Sexual Assault** is defined as any type of sexual contact or behavior that occurs by force or without consent of the recipient of unwanted sexual activity, such as the offenses of rape, fondling, incest, or statutory rape. It includes sexual acts against people who are unable to consent either due to age or a lack of capacity.
3. **Domestic Violence** is a pattern of abusive behavior that is used by an individual to gain or maintain power or control over their intimate partner or family member. Domestic violence can include, but is not limited to disorderly conduct, harassment, sexual misconduct, forcible touching, sexual abuse, assault, strangulation, etc., when such an act creates a substantial risk of physical or emotional harm and is committed by a family member.
4. **Dating Violence** is defined as a crime of violence committed by a person who is or has been in a social relationship or a romantic or intimate nature with the victim.

5. **Stalking** is a pattern of repeated and unwanted attention, harassment, contact, or any other actions directed at a specific person that would cause a reasonable person to (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress.

“Consensual relationships”: Consenting romantic and sexual relationships between a College employee and student or between two College employees, including supervisor-employee relationships, while not expressly forbidden, are discouraged. These relationships carry an inherent risk when they occur between instructor and student or between supervisor and subordinate due to the perceived or actual inequality of power and influence between the participants. As such, it is incumbent upon those with authority not to abuse, nor to seem to abuse, the power with which they are entrusted. Individuals engaging in such conduct understand they risk opening themselves up to a charge of sexual harassment.

Procedure:

Reporting individuals shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below:

To disclose *confidentially* the incident to an individual who by law may maintain confidentiality, and can assist in obtaining services:

- Counseling Office (518) 562-4199; and
- Health Services (518) 562-4129 (part time).

To disclose the incident to one of the following college officials who can offer *privacy* and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. Those officials will also provide the information contained in the Students’ Bill of Rights, including the right to choose when and where to report, to be protected by the institution from retaliation, and to receive assistance and resources from the institution. These college officials will disclose that they are private and not confidential resources, and they may still be required by law and college policy to inform one or more college officials about the incident, including but not limited to the Title IX Coordinator. They will notify reporting individuals that the criminal just process uses different standards of proof and evidence than internal procedures, and questions about the penal law or the criminal process should be directed to law enforcement or district attorney,:

- John Borner, Dean of Student Affairs and Title IX Coordinator, (518) 562-4121
- Sarah Potter, Director of Human Resources and Assistant Title IX Coordinator, (518) 562-4137;
- Mark Silver, Site Supervisor, Security – 8AM – 4 PM Monday – Friday (518) 562-4215

To file a criminal complaint with Campus Security and/or with local law enforcement and/or state police:

- Campus Security: (518) 593-0777 or 777 if calling from campus
- Plattsburgh Police: (518) 563-3411
- New York State Police: (518) 563-3761
- State police 24-hour hotline to report sexual assault on a NY college campus: 1-844-845-7269.
- To receive assistance by (518) 562-4120 in initiating legal proceedings in family court or civil court.

To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with Clinton Community

College policy and the reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy. Reporting individuals may call (518) 562-4199 anonymously to discuss the situation and available options (<http://www.clinton.edu/StudentServices/Content-docs/dc/5607/gid/22/document.cml>):

When the accused is an employee, a reporting individual may also report the incident to the Director of Human Resources or may request that one of the above referenced confidential or private employees assist in reporting to the Director of Human Resources. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the college, college officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a *persona non grata* letter, subject to legal requirements and college policy.

- Director of Human Resources: Sarah Potter, (518) 562-4137, 225 Moore Building

You may withdraw your complaint or involvement from the Clinton Community College process at any time.

The College shall ensure that, at a minimum, at the first instance of disclosure by a reporting individual to a college representative, the following information shall be presented to the reporting individual: "You have the right to make a report to Campus Security, local law enforcement, and/or State Police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution."

Note that individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.

Privacy versus Confidentiality:

Clinton Community College offices and employees who cannot guarantee *confidentiality* will maintain your *privacy* to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible under the law for tracking patterns and spotting systemic issues. The College will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

In addition, Employees may contact: (a) the Employee Assistance Service (EAS), 22 U S Oval – Suite 218, Plattsburgh, New York 12903, (518) 563-8293 on a confidential basis; (b) the New York State Division of Human Rights, One Fordham Plaza 4th Floor, Bronx, NY 10458; or (c) the U.S. Equal Employment Opportunity Commission, 1801 L. Street, N.W., Washington, D.C. 20507.

We also may take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify you or the situation you disclosed.

We may seek consent from you prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless the College's failure to act does not adequately mitigate the risk of harm to you or other members of the College community. Honoring your request may limit our ability to meaningfully investigate and pursue conduct action against an accused individual. If we determine

that an investigation is required, we will notify you and take immediate action as necessary to protect and assist you.

When you disclose an incident to someone who is responsible for responding to or reporting sexual misconduct or sexual harassment, but wish to maintain confidentiality, Clinton Community College will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- Whether the accused has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation, such as a situation that previously involved sustained stalking,
- The increased risk that the accused will commit additional acts of violence;
- Whether the accused used a weapon or force;
- Whether the reporting individual is a minor; and
- Whether we possess other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.

If the College determines that it must move forward with an investigation, the reporting individual or victim/survivor will be notified and the College will take immediate action as necessary to protect and assist them.

Public Awareness/Advocacy Events: If you disclose a situation through a public awareness event such as “Take Back the Night,” candlelight vigils, protests, or other public event, the College is not obligated to begin an investigation. The College may use the information you provide to inform the need for additional education and prevention efforts.

Institutional Crime Reporting: Reports of certain crimes occurring in certain geographic locations will be included in the College’s Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the reporting individual or victim/survivor. Campus Security and/or the Title IX Coordinator are obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the reporting individual or victim/survivor). A reporting individual will never be identified in a timely warning.

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parents’ prior year federal income tax return. Generally, [the College will not share information about a report of sexual violence with parents without the permission of the reporting individual.

Resources:

To obtain effective intervention services:

- Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Testing for STIs and emergency contraception is available at:
Sexual Assault services, (518) 825-6277, <http://www.plannedparenthood.org/north-country/sexual-assault-services-2368.htm>

- Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. It is best to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf, or by calling 1-800-247-8035. Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>.

To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.

In addition, Employees may contact: (a) the Employee Assistance Service (EAS), 22 U S Oval – Suite 218, Plattsburgh, New York 12903, (518) 563-8293 on a confidential basis;

Protection and Accommodations:

When the accused is a student, the College may issue a “No Contact Order,” consistent with college policy and procedure, meaning that continuing to contact the protected individual is a violation of college policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. Both the accused/respondent and reporting individual may request a prompt review of the need for and terms of a No Contact Order, consistent with College policy. Parties may submit evidence in support of their request.

When the accused is a student and presents a continuing threat to the health and safety of the community, the College may have the accused subject to interim suspension pending the outcome of a conduct process. Parties may request a prompt review of the need for and terms of an interim suspension.

When the accused is not a student but is a member of the College community and presents a continuing threat to the health and safety of the community, the College may require the accused to follow interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and College policies and rules.

When the accused is not a member of the College community, the complainant may request assistance from Campus Security or other college officials in obtaining a persona non grata letter, subject to legal requirements and college policy.

Responsibilities and Procedures

The Title IX Coordinator, the Office of Student Affairs, the Office of Campus Life, the Counseling and Advising Center, Health Services, the Office of Human Resource Services, and employees and students will support and assist (with the reporting individual's consent) reporting individuals of domestic violence, dating violence, stalking or sexual assault, to report any incident to campus authorities, law enforcement agencies, and to contact the local sexual assault agency, Student Health Services and the Counseling and Advising Center. In order to provide for the needs and care of reporting individuals, as well as to enforce behavior standards critical to our educational mission, it is important that all violations of this policy are reported to appropriate authorities, including the law

enforcement officials or agencies with jurisdiction in the location of the incident and to the Office of Student Affairs.

When a reporting individual of sexual violence or misconduct is identified or comes forward, there are three possible processes that person can engage to seek remedy. A reporting individual has the choice to be involved in one, two, or all three processes.

- The three processes include:
 - a Title IX investigation,
 - the criminal justice process assisted by either College Security or local law enforcement, and/or
 - the campus judicial process.

In all known cases, the Title IX Coordinator is charged to ensure that whatever path the reporting individual takes, including not participating in any formal process, Clinton Community College is in compliance with Title IX. Any and all procedures that the college offers, including judicial proceedings, must provide prompt and equitable resolution.

A Title IX investigation is different from any law enforcement investigation, and a law enforcement investigation does not relieve the college of its independent Title IX obligation to determine if there is a sexually hostile environment. If the complainant requests confidentiality or asks that the complaint not be pursued, the college will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue investigation. The college may weigh the request for confidentiality against factors such as: the seriousness of the alleged incident; the complainant's age; whether there have been other sexual harassment or violence complaints about the same individual; and the accused's rights to receive information about the allegation if the information is maintained by the school as an "education record" under FERPA.

College Title IX investigations and/or disciplinary procedures will:

- Proceed independently of any action taken in the criminal or civil courts, as determined on a case-by-case basis in compliance with Title IX regulations. College procedures are not a substitute for criminal court proceedings;
- Absent extenuating circumstances, be completed within sixty days.
- Proceed with appropriate attention to reporting individual's safety; and
- Not require a reporting individual to mediate directly with the person accused, including couples counseling

College Employees (when informed of an incident of sexual violence) should:

- Offer support for the reporting individual in non-judgmental ways, allowing the reporting individual to make personal decisions;
- Support and assist the reporting individual (with the reporting individual's consent) to explore that person's options with and/or to report the incident to the police, the Title IX Coordinator, and/or the Dean of Student Affairs;
- Support and assist the reporting individual (with the reporting individual's consent) to contact the local sexual assault agency and/or Student Health Services (at 562-4129 and/or the Counseling and Advising Center (at 562-4199)
- College employees with supervisory responsibilities will ensure all policies and procedures are followed to provide the reporting individual choices in services and support;
- Report the incident to the Title IX Coordinator (even if anonymously).

College Students

- Are encouraged to be familiar with campus and community resources available to college students, and offer support and assistance as appropriate;
- Are encouraged to be familiar with the student code of conduct;
- Are encouraged to report instances of sexual harassment or sexual violence to campus authorities: the Title IX Coordinator, Res Life staff, Campus Security.

Title IX Coordinator will:

- Respond to allegations of employee and student sexual harassment and sexual violence. Such allegations can be made by reporting individuals or witnesses. Consistent with Title IX requirements, investigations will proceed independently from any criminal investigation;
- Regardless of whether a reporting individual, a reporting party's parent, or a third party files a complaint under the college's complaint procedures or otherwise requests action on the student's behalf, promptly investigate to determine what occurred and then take appropriate steps to resolve the situation;
- Take interim safety steps on behalf of the reporting individual, which may include a change of housing assignment, changing class schedules. Safety steps taken should minimize the burden on complainant;
- Not require a reporting individual to mediate directly with person accused;
- If the reporting individual is a student, ensure the reporting individual has academic support available and that it is offered, such as tutoring, re-taking a course or withdrawing from class without penalty;
- Provide assistance to law enforcement regarding appropriate response and have access to campus law enforcement investigation records and findings for the Title IX investigation, so long as it does not compromise the criminal investigation;
- Review all cases in the campus judicial system and/or criminal justice system at least annually to determine if some remedy available under Title IX was not available;
- Make referrals as indicated;
- If the reporting individual has not reported the incident to College Security, complete a confidential Clery Crime report form and forward it as directed.

Student Health Services and the Counseling and Advising Center will:

- Maintain the contact as strictly confidential;
- Support and assist the reporting individual (with the reporting individual's consent) to report the incident to the Title IX Coordinator, police and/or the Dean of Student Affairs;
- Provide appropriate medical services, counseling, and documentation;
- Support and assist the reporting individual (with the reporting individual's consent) to contact local victim/survivor services agencies.
- Have Victim's Safety Service Notices available;
- If the reporting individual has not reported the incident to College Security and the victim consents, complete a confidential Clery Crime report form and forward it as directed.

Campus Security will:

- Investigate reports on the basis of either a statement of sexual assault from the reporting individual or a witness's statement or complaint (i.e., residence hall staff, police, faculty, staff, parent, visitor, or another student);
- Refer accused/respondent for prosecution, personnel action, and/or judicial action as appropriate;
- Assist the reporting individual in obtaining medical assistance, if needed;
- Support and assist the reporting individual (with the reporting individual's consent) to contact local victim/survivor services agencies;
- If the reporting individual presents at Campus Security, provide the Victim's Safety Services Receipt and distribute copies as indicated;
- Refer cases/complainants to the Title IX Coordinator if the reporting individual wants to file a complaint through that office, whether the accused is a student, employee, or a third party;
- File crime and other reports as appropriate.

Office of Campus Life will:

- If the reporting individual presents to this office, complete the Victim's Services Notice and distribute copies as indicated;
- Report all incidents to the Dean of Student Affairs, who will refer as appropriate. The Dean of Student Affairs is obligated to report as per the Clery Act, but the name of the reporting individual will only be provided with the reporting individual's consent, except in extenuating circumstances;
- Support and assist the reporting individual (with the reporting individual's consent) to contact the Student Health Office and Counseling and Advisement Center and assist in obtaining medical care, if needed;
- Contact the Counseling and Advisement Center and ask them to reach out to the student;
- Support and assist the reporting individual (with the reporting individual's consent) to contact local victim/survivor services agencies;
- Support and assist the reporting individual (with the reporting individual's consent) to report the incident to the Title IX Coordinator or police;
- Place this policy in the manual for RAs and RDs and provide yearly training on the policy.

Student Affairs Office will:

- Receive reports of sexual violence and compile for review by Title IX Coordinator;
- Collect confidential Clery Crime Incident Report forms and summarize to College officials and the College Security for the purposes of annual statistical crime reporting;
- Ensure that educational sessions regarding sexual harassment and sexual violence reporting and prevention happen during New Student Orientation and in the Residence Halls. This education will inform students that sexual harassment and sexual violence are prohibited, and will include definitions, list options for bystander action, and describe warning signs;
- Respond to allegations of student misconduct consistent with the Student Conduct Manual. Such allegations can be made by reporting individuals or witnesses (e.g., residence hall staff, police, faculty, staff, parent, visitor, or another student). This procedure is independent of any criminal procedure. Proceedings shall provide for prompt, fair and impartial resolutions. The reporting and responding individuals are entitled to the same opportunities to have a support person of their choice at any proceeding or related meeting; (see list of rights above);
- Not require a reporting individual to mediate directly with person accused;
- Hold students who violate the College's Code of Conduct accountable utilizing the Student Code of Conduct and procedures therein. The standard for holding individuals accountable will be a "preponderance of the evidence". The reporting and responding individuals will be simultaneously informed in writing of the outcome of disciplinary proceedings;
- If the reporting individual presents to this office, complete the Victim's Services Notice and distribute copies as indicated;
- Support and assist the reporting individual (with the reporting individual's consent) to contact local victim/survivor services agencies;
- Support and assist the reporting individual (with the reporting individual's consent) to report the incident to the Title IX Coordinator and police;
- If the reporting individual has not reported the incident to UP, complete a confidential Clery Crime report form (see links in Appendix B) and forward it as directed;
- Ensure that the reporting individual, if desired, has a support person present at any interview or hearing, in a manner consistent with the governing student conduct procedures;
- Organize training of judicial boards hearing cases involving sexual violence.

Human Resources will:

- Respond to allegations of employee misconduct consistent with College policy. Such allegations can be made by reporting individuals or witnesses. This procedure is independent of any criminal procedure and will proceed independently in compliance with Title IX procedures;
- Support and assist the employee (with the employee's consent) to report the incident to the Title IX Coordinator and/or police. Human Resources may be obligated to report to the police the fact that an assault was reported, but the name of the reporting individual will only be provided with the reporting individual's consent, except in extenuating circumstances;
- Not require a reporting individual to mediate directly with person accused;
- If the accused/respondent is a student, report the incident to the Dean of Student Affairs;
- If the reporting individual has not reported the incident to Campus Security, complete a confidential Clery Crime report form and forward it as directed on the form;
- Work with the Title IX Coordinator to investigate and initiate disciplinary procedures when warranted;

- Pursue disciplinary charges against the accused employee in accordance with applicable collective bargaining agreements when sufficient information indicates that there are reasonable grounds to pursue disciplinary action, whether or not legal authorities pursue these charges and whether or not the employee is convicted of these charges;
- If the reporting individual presents at this office, provide a Victim's Services Notice and distribute copies as indicated on the form;
- Disseminate, on an annual basis, information to College employees concerning this policy.
- Ensure new employees receive sexual violence prevention education which informs them that sexual harassment and sexual violence are prohibited, and which includes definitions, lists options for bystander action, and describes warning signs.

Prohibition against Retaliation and False Complaints

An employee or student who participates in any of the sexual harassment or sexual misconduct reporting procedures has the right to do so without fear of or actual retaliation. It will be made clear to Respondent that retaliation against an employee or a student who has filed a complaint, or against any witness, will result in appropriate sanctions or disciplinary action as covered by College policies or applicable collective bargaining agreements. These sanctions will be invoked for retaliation regardless of the merits of the original complaint.

Because of the damage that can be done to someone falsely accused, any individual who in bad faith knowingly makes a false complaint or report of sexual harassment or sexual misconduct may be subject to disciplinary action up to and including termination from employment, or in the case of a student up to and including suspension and/or dismissal, or in the case of a non-employee, an appropriate remedy up to and including termination of the business relationship in accordance with legal guidelines, College policy, and any applicable collective bargaining agreement(s).

Process for Employee Appeals

Any complainant or accused party who wishes to appeal the procedures or decision which the College followed in investigating a written complaint filed under this Policy, may do so within ten (10) business days of receipt of the appellant's notification of the investigation outcome. Untimely submissions shall not receive consideration. Such appeal must be made in writing to the Board of Trustees by submission to the President's Office. The appellant shall be entitled to present evidence as to why:

- the investigation procedures were flawed, and
- the investigation procedures were improper, or
- the investigation procedures were not in compliance with this Policy.
- The decision is not consistent with the facts, or with all elements of this policy.

Upon receipt of an appeal, the Board of Trustees shall appoint an Appeal Committee comprised of a designee of the President, a member of the Affirmative Action Committee, and a member of the CCC Board of Trustees to consider and review any such appeal. The Committee's consideration and review of any such appeal shall be conducted confidentially. Following a review of the evidence, as well as the information obtained in the investigation process and conclusions derived therefrom, the Committee shall render their recommendation to

the Board of Trustees confidentially in an executive session. The Board’s decision shall be final. The appellant shall be notified of the decision in writing within ten (10) business days of the decision being rendered.

Nothing set forth in the Appeal Process above shall be construed to in any way confer upon either the complainant(s) or the person(s) accused of violating this Policy any right to appeal the College’s determination as to appropriate disciplinary and/or corrective action to be taken on meritorious complaints. In this regard, the College at all times retains the right to determine the appropriate disciplinary and/or corrective action to be taken with regard to a meritorious complaint subject to any rights an individual who is a union member or otherwise covered by a collective bargaining agreement has under such agreement.

History:

Policy Adopted:

Revised: August 16, 2016

Distribution:

All holders of Clinton Community College Policy and Procedures Manual

Director of Human Resources			
Executive Responsible for Procedure	Date	President’s Staff Member’s Approval	Date
President’s Approval			Date