



Sexual Misconduct (Title IX) Policy and Procedures

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Section 1: Introduction

In accordance with federal and state law including, Title IX of the Education Amendments of 1972 (“Title IX”) and Title VII of the Civil Rights Act of 1964 (Title VII), Clayton State University (“CSU”) prohibits discrimination on the basis of sex in any of its education programs or activities or in employment. Clayton State University is committed to ensuring the highest ethical conduct of the members of its community by promoting a safe learning and working environment, and one that supports the dignity of all members of the University’s community and the University System of Georgia community. To that end, this policy prohibits specific forms of behavior that violate Title IX of the Education Amendments of 1972, as defined herein. The University Community is defined as students, faculty and staff, as well as contractors, vendors, visitors, and guests.

Clayton State University is committed to reducing incidents of Sexual Misconduct, providing prevention tools, conducting ongoing awareness and prevention programming, and training the campus community in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) and the Violence Against Women Act (“VAWA”). Prevention programming and training will promote positive and healthy behaviors and educate the University community on consent, sexual assault, sexual harassment, alcohol and drug use, dating violence, domestic violence, stalking, bystander intervention, and reporting.

When Sexual Misconduct does occur, all members of the University community are strongly encouraged to report it promptly through the procedures outlined in this Policy. The purpose of this Policy and procedures are intended to ensure that all parties who may be involved in a related matter, receive appropriate support and fair treatment, and that allegations are handled in a prompt, thorough and equitable manner.

This Policy applies to all members of the University community. This Policy is not intended to infringe or restrict rights guaranteed by the United States Constitution including free speech under the First Amendment, or the due process clauses of Fifth and Fourteenth Amendments.

Section 2. Definitions and Prohibited Conduct

Community: Students, faculty, and staff, as well as contractors, vendors, visitors and guests.

Complaint: An expression of grief or dissatisfaction concerning conduct that violates this Policy.

Complainant: An individual who is alleged to have experienced conduct that violates this Policy.

Confidential Employees: Institution employees who have been designated by the institution to talk with a Complainant or Respondent in confidence. Confidential Employees must only report that the incident occurred and provide date, time, location, and name of the Respondent (if known) without revealing any information that would personally identify the alleged victim. This minimal reporting must be submitted in compliance with Title IX and the Clery Act. Confidential Employees may be required to fully disclose details of an incident in order to ensure campus safety.

Consent: Words or actions that show a knowing and voluntary willingness to engage in mutually agreed-upon sexual activity. Consent cannot be gained by force, intimidation or coercion; by ignoring or acting in spite of objections of another; or by taking advantage of the incapacitation of another where the respondent knows or reasonably should have known of such incapacitation. Minors under the age of 16 cannot legally consent under Georgia law.



Consent is also absent when the activity in question exceeds the scope of consent previously given. Past consent does not imply present or future consent. Silence or an absence of resistance does not imply consent.

Consent can be withdrawn at any time by a party by using clear words or actions.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. The existence of such relationship shall be determined based on the totality of the circumstances including, without limitation to: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.

Domestic Violence: Violence committed by a current or former spouse or intimate partner of the alleged victim; by a person with whom the alleged victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the alleged victim.

Formal Complaint: A Formal Complaint is a written document filed by the Complainant or signed by the Coordinator alleging sexual harassment, as defined by Title IX and its implementing regulations, against a Respondent and requesting that the institution open an investigation. In order to file a Formal Complaint, the Complainant must be participating in or attempting to participate in the education program or activity of the institution occurring within the United States at the time of the filing.

Hearing Panelist: A thoroughly trained person appointed by the institution to serve on hearing panels.

Incapacitation: The physical and/or mental inability to make informed, rational judgments. It can result from mental disability, sleep or any state of unconsciousness, involuntary physical restraint, status as a minor under the age of 16, or from intentional or unintentional taking of alcohol and/or other drugs. Whether someone is incapacitated is to be judged from the perspective of an objectively reasonable person.

Investigator: a person who carries out a formal inquiry or investigation.

Nonconsensual Sexual Contact: Any physical contact with another person of a sexual nature without the person's consent. It includes but is not limited to the touching of a person's intimate parts (for example, genitalia, groin, breasts, or buttocks); touching a person with one's own intimate parts; or forcing a person to touch his or her own or another person's intimate parts. This provision also includes "Fondling" as defined by the Clery Act.

Nonconsensual Sexual Penetration: Any penetration of the vagina, anus, or mouth by a penis, object, tongue, finger, or other body part; or contact between the mouth of one person and the genitals or anus of another person. This provision also includes "Rape, Incest, and Statutory Rape" as defined by the Clery Act.

Privileged Employees: Individuals employed by the institution to whom a complainant or alleged victim may talk in confidence, as provided by law. Disclosure to these employees will not automatically trigger an investigation against the complainant's or alleged victim's wishes. Privileged Employees include those providing counseling, advocacy, health, mental health, or sexual-assault related services (e.g., sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers) or as otherwise provided by applicable law.



Exceptions to confidentiality exist where the conduct involves suspected abuse of a minor (in Georgia, under the age of 18) or otherwise provided by law, such as imminent threat of serious harm.

Reasonable Person: An individual who is objectively reasonable under similar circumstances and with similar identities to the person being evaluated by the institution.

Report: A spoken or written account of something that one has observed, heard, been involved with, or done.

Reporter: An individual who reports an allegation of conduct that may violate this Policy but who is not a party to the complaint.

Respondent: An individual who is alleged to have engaged in conduct that violates this Policy.

Responsible Employees: Those employees who must promptly and fully report complaints of or information regarding sexual misconduct to the Coordinator. Responsible Employees include any administrator, supervisor, faculty member, or other person in a position of authority who is not a Confidential Employee or Privileged Employee. Student employees who serve in a supervisory, advisory, or managerial role are in a position of authority for purposes of this Policy (e.g., teaching assistants, residential assistants, student managers, orientation leaders). Responsible Employees are not required to report information disclosed at public awareness events (e.g., “Take Back the Night,” candlelight vigils, protests, “survivor speak-outs” or other public forums in which students may disclose incidents of prohibited conduct).

Sexual Exploitation: Taking non-consensual or abusive sexual advantage of another for one’s own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited.

Examples of sexual exploitation may include, but are not limited to, the following:

1. Invasion of sexual privacy;
2. Prostituting another individual;
3. Non-consensual photos, video, or audio of sexual activity;
4. Non-consensual distribution of photo, video, or audio of sexual activity, even if the sexual activity or capturing of the activity was consensual;
5. Intentional observation of nonconsenting individuals who are partially undressed, naked, or engaged in sexual acts;
6. Knowingly transmitting an STD or HIV to another individual through sexual activity;
7. Intentionally and inappropriately exposing one’s breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or
8. Sexually-based bullying.

Sexual Harassment (Student on Student): Unwelcome verbal, nonverbal, or physical conduct based on sex (including gender stereotypes), determined by a Reasonable Person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to participate in or to benefit from an institutional education program or activity in violation of Title IX.

Sexual Harassment (Other than Student on Student): Unwelcome verbal, nonverbal, or physical conduct, based on sex (including gender stereotypes), that may be any of the following:

1. Implicitly or explicitly a term or condition of employment or status in a course, program, or activity;
2. A basis for employment or educational decisions; or



3. Is sufficiently severe, persistent, or pervasive to interfere with one's work or educational performance creating an intimidating, hostile, or offensive work or learning environment, or interfering with or limiting one's ability to participate in or to benefit from an institutional program or activity.

Clayton State University also prohibits unwelcome conduct determined by a Reasonable Person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a Clayton State University education program or activity in violation of Title IX.

Sexual Misconduct: Includes, but is not limited to, such unwanted behavior as dating violence, domestic violence, nonconsensual sexual contact, nonconsensual sexual penetration, sexual exploitation, sexual harassment and stalking.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

For the purposes of this definition:

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with person's property.
2. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily, require medical or other professional treatment or counseling.

Title IX Coordinator: For the purposes of Title IX, the Title IX Coordinator may also be known as "Coordinator." The Title IX Coordinator is responsible for coordinating and responding to all complaints involving possible sex discrimination. This responsibility includes monitoring outcomes, identifying and addressing any patterns, and assessing effects on the campus climate.

In the event of the absence of the Title IX Coordinator the Deputy may serve in this capacity and may be directed as the designee.

University System of Georgia (USG): The University System of Georgia (USG) is the government agency that includes 26 public institutions (Colleges and Universities) of higher learning in the U.S. state of Georgia. The system is governed by the Georgia Board of Regents. Clayton State University is a public institution under the USG. For the purposes of this policy USG may also be referred to as "Board."

Section 3. Reporting Sexual Misconduct

Clayton State University encourages the reporting of all Sexual Misconduct as soon as possible. While there is no statute of limitations on an institution's ability to respond to a report, the ability to respond diminishes with time as information and evidence may be more difficult to secure.



The Coordinator and Deputy's identity and contact information is listed below and is also published prominently on the institution's website located here: <https://www.clayton.edu/human-resources/current-employees/title-ix>.

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Reporting sexual misconduct can occur through several reporting options at Clayton State University, which may include filing an administrative report with the Title IX Coordinator or Deputy; reporting to a Responsible Employee; or filing an anonymous report. A complainant of sexual misconduct may report in a number of ways. These processes are detailed below.

Institutional Reports: An institutional report occurs when the institution has notice of a complaint. That notice occurs in two instances:

1. When a Responsible Employee receives a report or complaint; or
2. When the Title IX Coordinator, Deputy, or their designee receives a report or complaint.

Any individual may make a report, but the institution does not have notice of the report until information is known to a Responsible Employee or the Coordinator. The report may be made directly to the Coordinator in multiple formats to include writing, email, phone, letter, fax, interview, or other methods that provides the basis of the complaint of sexual misconduct. There is no specific information required to constitute a report; however, the report should contain as much information as can be provided. Reporting options are available on the Title IX website located here: <https://www.clayton.edu/human-resources/current-employees/title-ix>.

Complainants, or anyone with knowledge of Sexual Misconduct, may file a report with a Responsible Employee or the Coordinator. That Responsible Employee must provide a complete reporting of all information known to them to the Coordinator. Responsible Employees informed about Sexual Misconduct allegations should not attempt to resolve the situation but must notify and report all relevant information to the Coordinator as soon as practical.

Upon receipt of an institutional report, the Coordinator will contact the Complainant. That contact will discuss the availability of supportive measures, the invitation to discuss their wishes with respect to implementation of supportive measures and explain the process of filing a complaint. An institutional report does not automatically prompt an investigation. Information from complaints will be shared only as necessary to investigate and to resolve the alleged sexual misconduct.

Institutional reports will be investigated and adjudicated separately from any criminal complaints.

Please remember that if someone is in immediate danger or needs immediate medical attention, the first place to report is CSU's Department of Public Safety at 678-466-4050.



You may also report to the Morrow City Police Department, or the local police. Some forms of discrimination and harassment may also be crimes. Criminal reports should be made to law enforcement, even if it is uncertain whether the particular conduct is a crime. Calling CSU Public Safety or local law enforcement can help you:

1. Obtain emergency and nonemergency medical care.
2. Get immediate law enforcement response for your protection.
3. Understand how to obtain/provide assistance in a situation that may escalate to more severe criminal behavior.
4. Arrange a meeting with victim advocate services.
5. Find counseling and support.
6. Initiate a criminal investigation.
7. Answer questions about the criminal process.

Complainants considering filing a report of sexual misconduct with law enforcement should preserve any evidence of sexual misconduct, including, but not limited to, the following:

1. Clothing worn during the incident including undergarments.
2. Sheets, bedding, and condoms, if used.
3. Lists of witnesses with contact information.
4. Text messages, call history, social media posts.
5. Pictures of injuries; and/or
6. Screen captures, videos.

Emergency Blue Light Network: Throughout the campus there are several white structures with reflective lettering on the sides stating EMERGENCY and topped with a blue light. These eye-catching structures are campus emergency phones. They will emit a blue light after dark when activated after the button on the phone is pressed. Once activated, users are automatically connected to University Police. These telephones have been placed throughout the campus and parking lots. In addition to the emergency telephones, there are a number of closed-circuit television surveillance cameras that assist in monitoring selected areas on campus. To activate an emergency telephone, walk up to the Tower and press the black button. Phones automatically dial into the University Police Communications Center. Immediately inform the dispatcher of the nature of the emergency and its exact location.

Is there a Safety Escort Service available? Yes. Clayton State University Public Safety will provide safety escorts. You may request an officer's presence when you are in need of a Safety Escort.

Confidential Reports: Confidential Employees or Privileged Employees may receive reports of Sexual-based Misconduct without the requirement to report that information to the Coordinator, except as dictated by law or professional standards. Upon request by the Complainant, Confidential Employees and Privilege Employees may make a report to the Coordinator within the degree of specificity dictated by the Complainant.

Nothing in this provision shall prevent an institution staff member who is otherwise obligated by law (i.e., the Clery Act) to report information or statistical data as required.

Law Enforcement Reports: Because Sexual Misconduct may constitute criminal activity, a Complainant also has the option, should the Complainant so choose, of filing a report with campus or local police, for the Complainant's own protection and that of the surrounding community. The institution may assist the Complainant in reporting the situation to law enforcement officials. Filing a criminal report does not automatically constitute an institutional report.



Anonymous Reports: Clayton State University provides a mechanism by which individuals can report incidents of alleged Sexual Misconduct anonymously. Individuals should understand, however, that it will be more difficult for the institution to respond and to take action upon anonymous reports. Anonymous reports can be made here: https://claytonstate.qualtrics.com/jfe/form/SV_ebRSQ0hxLtiwDJP.

Student or Employee Reports: Complaints and reports should be made as soon as possible after an incident or once a matter is known. The Title IX Coordinator coordinates and tracks all complaints and reports under this procedure. There are several avenues available for submitting a complaint or report:

- Call or leave a private voice message for the Title IX Coordinator at (678) 466-4237 or for the Deputy Coordinator at 678-466-4232 or 4230;
- File a complaint or report on the form contained on the Title IX website: https://claytonstate.qualtrics.com/jfe/form/SV_ebRSQ0hxLtiwDJP;
- Send a private email to the Title IX staff at title9@clayton.edu;
- Mail a letter to the Office of Institutional Equity, EEO, and Title IX
 - Clayton State University
Attn: Title IX Coordinator
2000 Clayton State Boulevard
Morrow, GA 30260;
- Visit one of the Title IX staff (it is best to make an appointment first to ensure availability).
- Report to another trusted University official (e.g., Resident Assistant, Professor, Coach, Advisor, or Administrator) who will provide information as required under the policy to the Title IX Coordinator or Deputy.

Responsible Employees (Mandatory Reporter) Reports: All members of Clayton State University are encouraged to report incidents of sexual misconduct promptly.

Responsible Employees (Mandatory Reporters) informed about sexual misconduct allegations involving any student must notify the Title IX Coordinator or Deputy as soon as practicable. Responsible Employees should **not** attempt to resolve the situation but must notify and report all relevant information to the Title IX Coordinator or Deputy Coordinator.

Privileged Employees are **not** bound by this requirement but may, consistent with their ethical and legal obligations, be required to report limited information about incidents without revealing the identities of the individuals involved, to the Title IX Coordinator or Deputy.

Complaints should include as much information as possible – that is: (1) the type of sexual misconduct experienced; (2) the name of the respondent; (3) the date(s), time(s), and place(s) of the sexual misconduct; (4) the name(s) of any individual(s) with knowledge of the incident; (5) whether any tangible evidence has been preserved; and (6) whether a criminal complaint has been made. *[Note: In gathering the information, the Responsible Employee (Mandatory Reporter) should stop short of starting to investigate the situation and must notify the Title IX Coordinator or Deputy Coordinator promptly.]*

Third Party Reports: The Title IX Coordinator accepts third-party reports of conduct alleged to violate this Policy and will follow up on such reports. The individual making the report (Reporter) is encouraged to provide as much detailed information as possible.



Making an External Report: If you filed a complaint with the Title IX Coordinator and believe the University's response was inadequate, or you otherwise believe you have been discriminated against by the University on the basis of race, color, national origin, sex, including sexual harassment, disability, age, or retaliation, you may file a complaint with the Board of Regents of the University System of Georgia.

- University System of Georgia - System Director for Equity, Investigations and Legal Counsel, 404-962-3010

In addition, you may file a complaint with the federal Office for Civil Rights (OCR) of the U.S. Department of Education based in Atlanta or the Educational Opportunities Section (EOS) of the Civil Rights Division of the U.S. Department of Justice.

Confidentiality: Where a Complainant (where applicable) requests that their identity be withheld or the allegation(s) not be investigated, the institution should consider whether or not such request(s) can be honored while still promoting a safe and nondiscriminatory environment for the institution and conducting an effective review of the allegations. The institution should inform the requesting party that the institution cannot guarantee confidentiality and that even granting requests for confidentiality shall not prevent the institution from reporting information or statistical data as required by law, including the Clery Act.

In addition, the integrity of the process depends on ensuring reasonable confidentiality. The Title IX Coordinator will keep confidential (to the extent possible and as per applicable institutional and USG policies) the complaint, report, witness statements, and any other information provided by the Complainant, Respondent, or witnesses and will disclose this information only to the Complainant, Respondent, or witnesses, as necessary to give fair notice of the allegations and to conduct the investigation; to law enforcement consistent with state and federal law; to other University officials as necessary for conducting the investigation and for coordinating interim measures, sanctions or for health, welfare, and safety reasons, and to government agencies who review the University's compliance with federal law.

University members involved in an administrative investigation and any proceedings have the same strict obligations to keep all information they learn confidential (to the extent possible and as per applicable institutional and USG policies), subject to the limited exception when necessary to protect health, welfare or safety. Information about complaints and reports, absent personally identifiable information, may be reported to University officials and external entities for statistical and analysis purposes pursuant to federal and state law and University policy.

Complaint Consolidation: Clayton State University may consolidate complaints as to allegations of Sexual Misconduct against more than one Respondent, by more than one Complainant against one or more Respondents, or cross-complaints between parties, where the allegations of sexual misconduct arise out of the same facts or circumstances.

Parties shall have the opportunity to request or object to the consolidation; however, the institution shall have the authority to make the final determination. For the purpose of this Policy, consolidation may occur during the investigation and/or the adjudication phases of the sexual misconduct process.



Complaint Dismissal: Each institution is permitted, but not required, to dismiss complaints on the following grounds:

1. The alleged conduct, even if proved, would not constitute sexual misconduct (however other University policies may apply).
2. The Complainant notifies the Coordinator in writing that they would like to withdraw the complaint.
3. The Respondent is no longer enrolled or employed by the institution; or
4. There are circumstances that prevent the institution from gathering evidence sufficient to reach a determination regarding the complaint.

The parties shall receive simultaneous written notice of the dismissal and the reason(s) for the dismissal. The parties shall have a right to appeal the institution's decision to dismiss the complaint.

Retaliation: Anyone who has made a report or complaint, provided information, assisted, participated or refused to participate in any manner in the Sexual Misconduct Process, shall not be subjected to retaliation. Anyone who believes that they have subjected to retaliation should immediately contact the Coordinator or their designee. Any person found to have engaged in retaliation in violation of this Policy shall be subject to disciplinary action.

False Complaints: Individuals are prohibited from knowingly making false statements or knowingly submitting false information to an institution or University System of Georgia official. Any person found to have knowingly submitted false complaints, accusations, or statements, including during a hearing, in violation of this Policy shall be subject to appropriate disciplinary action (up to and including suspension or expulsion) and adjudicated under the appropriate institutional process.

Amnesty: Individuals should be encouraged to come forward and to report Sexual Misconduct notwithstanding their choice to consume alcohol or to use drugs. Information reported by a student during an investigation concerning the consumption of drugs or alcohol will not be used against the particular student in a disciplinary proceeding or voluntarily reported to law enforcement; however, students may be provided with resources on drug and alcohol counseling and/or education, as appropriate. Nevertheless, these students may be required to meet with staff members in regard to the incident and may be required to participate in appropriate educational program(s). The required participation in an educational program under this amnesty procedure will not be considered a sanction.

Nothing in this amnesty provision shall prevent an institution staff member who is otherwise obligated by law (the Clery Act) to report information or statistical data as required.

Section 4. Responding to Reports of Sexual Misconduct

Support Services: Once the Title IX Coordinator has received information regarding an allegation of Sexual Misconduct the parties will be provided written information about support services. Support services are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without charge that are made available to the Complainant and Respondent before or after the filing of a complaint or where no complaint has been filed. Support services include counseling, advocacy, housing assistance, academic support, disability services, health and mental services, and other services, available at the student's institution. Available support services are listed below and on the Title IX website located here <https://www.clayton.edu/human-resources/current-employees/title-ix>:

Approving University Officials: President and University Cabinet
Responsible Office: Human Resources – Office of Institutional Equity
Effective Date: August 14, 2020
Next Review Date: August 14, 2021



<ul style="list-style-type: none"> <input type="checkbox"/> Employee Assistance Program. KEPRO. (844) 243-4440 <input type="checkbox"/> Human Resources (Title IX): (678) 466-4230 https://www.clayton.edu/human-resources/current-employees/title-ix <input type="checkbox"/> Department of Public Safety: (678) 466-4050; https://www.clayton.edu/public-safety/index <input type="checkbox"/> University Health Services: (678) 466-4940; https://www.clayton.edu/uhs/ <input type="checkbox"/> Counseling Services: (678) 466-5406; https://www.clayton.edu/counseling/ <input type="checkbox"/> Disability Services: (678) 466-5445; https://www.clayton.edu/disability/ <input type="checkbox"/> Division of Student Affairs: (678) 466-5420; https://www.clayton.edu/about/administration/student-affairs/index <input type="checkbox"/> Southern Regional Medical Center: (770) 991-8000 	<ul style="list-style-type: none"> <input type="checkbox"/> Clayton County District Attorney’s Office: (770) 477-3450 <input type="checkbox"/> Victim Witness Assistance: (770) 603-4110 <input type="checkbox"/> Clayton County Solicitor General’s Office: (770) 477-3380 & Victim Services: (770) 473-5808 <input type="checkbox"/> Clayton County Magistrate Court: (770) 477-3444 <input type="checkbox"/> RAINN (Rape, Abuse, and Incest National Network): https://rainn.org/ 800.656.HOPE (4673) <input type="checkbox"/> Suicide Hotline: (800) 827-7571 <input type="checkbox"/> United Way: Dial 211 <input type="checkbox"/> Department of Family and Children Services: (770) 603-4602 <input type="checkbox"/> Southern Crescent Sexual Assault Center: (770) 477-2177; http://gnesa.org/content/southern-crescent-sexual-assault-center
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Interim Measures: Interim measures may be implemented at any point after the institution becomes aware of an allegation of sexual misconduct and should be designed to protect any student or other individual in the Clayton State University community. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the campus community, or deter Sexual Misconduct and retaliation. Interim measures must be provided consistent with the provisions in applicable institutional and USG policies and procedures.

Emergency Removal: Emergency removal should only occur where necessary to maintain safety and should be limited to those situations where the Respondent poses a serious and immediate danger or threat to persons or property. In making such an assessment, the institution should consider the existence of a significant risk to the health or safety of the Complainant or the campus community; the nature, duration, and severity of the risk; the probability of potential injury; and whether less restrictive means can be used to significantly mitigate the risk.

Jurisdiction: Each USG institution shall take necessary and appropriate action to protect the safety and well-being of its community. Sexual misconduct allegedly committed is addressed by this Policy when the misconduct occurs on institution property, or at institution-sponsored or affiliated events, or off-campus, as defined by other USG or institution student conduct policies.

Alleged misconduct is addressed by Title IX when the misconduct occurs against a person in the United States on institution property, or at institution-sponsored or affiliated events where the institution exercises substantial control over both the Respondent and the context, or in buildings owned or controlled by a student organization that is officially recognized by the institution.



Advisors: Both the Complainant and the Respondent, as parties to the matter, shall have the opportunity to use an advisor (who may or may not be an attorney) of the party's choosing at the party's own expense. The advisor may accompany the party to all meetings and may provide advice and counsel to their respective party throughout the Sexual Misconduct process, including providing questions, suggestions and guidance to the party, but may not actively participate in the process except as outlined in BOR 6.7.4 (D). All communication during the Sexual Misconduct process will be between the institution and the party and not the advisor. With the party's permission, the advisor may be copied on all communications.

Informal Resolutions: Allegations of Sexual Misconduct may be resolved informally. The Complainant, the Respondent, and the institution must agree to engage in the informal resolution process and to the terms of the informal resolution. The Complainant(s) and the Respondent(s) have the option to end informal resolution discussions and request a formal process at any time before the terms of an informal resolution are reached. However, matters resolved informally shall not be appealable.

Formal Complaints may be resolved informally, except in the instance of an allegation by a student against an institution employee. The following must be met in order to proceed with the informal resolution process:

1. The parties have received written notice of the allegations
2. The parties have received written explanation of the informal process to include, but not limited to:
 - a. Written agreement of the parties to initiate the informal resolution process;
 - b. Written notice that the parties may withdraw from the process at any time prior to the agreement of the terms of the resolution;
 - c. Written notice that the final resolution precludes any further institutional actions on the allegations
3. The institution has agreed to engage in the informal resolution process.

Timeframe: Efforts will be made to complete the investigation and resolution within 120 business days. Temporary delays and limited extensions may be granted by the institutions for good cause throughout the investigation and resolution process. The parties will be informed in writing of any extension or delay and the applicable reason. The institution shall keep the parties informed of the status of the investigation.

Section 5. Responding to Reports of Sexual Harassment Pursuant to Title IX

Implementing Title IX regulations require special handling of complaints of sexual harassment, as defined in the regulations and listed below. The following section outlines the required specialized handling of these matters that may differ from an institution's handling of Sexual Misconduct, as defined in this Policy. Unless expressly mentioned in this section, other provisions of this Policy shall apply to all alleged Sexual Misconduct. Other Title IX sex-discrimination allegations are handled pursuant to other applicable USG and/or institutional policies.

Definition of Sexual Harassment: Under Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity; or
- (3) "Sexual assault" as defined by the Clery Act and "dating violence," "domestic violence," and "stalking" as defined by the VAWA Amendments.

Approving University Officials: President and University Cabinet
Responsible Office: Human Resources – Office of Institutional Equity
Effective Date: August 14, 2020
Next Review Date: August 14, 2021



Formal Complaints: A Formal Complaint is a written document filed by the Complainant or signed by the Coordinator alleging sexual harassment, as defined by Title IX and its implementing regulations, against a Respondent and requesting that the institution open an investigation. In order to file a Formal Complaint, the Complainant must be participating in or attempting to participate in the education program or activity of the institution occurring within the United States at the time of the filing.

Section 6. Investigations

All Sexual Misconduct investigations involving a student Respondent, shall follow the investigation process set forth in [Section 4.6.5, Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings](#).

(URL:

https://www.usg.edu/policymanual/section4/C332/#p4.6.5_standards_for_institutional_student_conduct_investigation).

All Sexual Misconduct investigations involving an employee Respondent, shall be addressed utilizing Board and institutional employment policies and procedures.

Section 7. Hearings, Possible Sanctions and Appeals

All Sexual Misconduct hearings, sanctions, and appeals involving a student Respondent, shall follow the hearing and resolution process set forth in this Policy and [Section 4.6.5, Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings](#) (URL:

https://www.usg.edu/policymanual/section4/C332/#p4.6.5_standards_for_institutional_student_conduct_investigation

https://www.usg.edu/policymanual/section4/C332/#p4.6.5_standards_for_institutional_student_conduct_investigation).

All Sexual Misconduct adjudication involving an employee Respondent, shall be addressed utilizing Board and institutional employment policies and procedures.

Section 8. Process for Investigating and Resolving Disputed Reports

Investigation: Throughout any investigation and resolution proceeding, a party shall receive written notice of the alleged Sexual Misconduct, shall be provided an opportunity to respond, and shall be allowed the right to remain silent or otherwise not participate in or during the investigation and resolution process without an adverse inference resulting. If a party chooses to remain silent or otherwise not participate in the investigation or resolution process, the investigation and resolution process may still proceed, and policy violations may result.

Until a final determination of responsibility, the Respondent is presumed to have not violated the Sexual Misconduct Policy. Prior to the finalization of the investigation report, timely and equal access to information directly related to the allegations that has been gathered during the investigation and may be used at the hearing will be provided to the Complainant, the Respondent, and a party's advisor (where applicable).

Formal judicial rules of evidence do not apply to the investigation process, additionally the standard of review throughout the Sexual Misconduct process is a preponderance of the evidence.

1. The parties shall be provided with written notice of the: report/allegations with sufficient details, pending investigation, possible charges, possible sanctions, available support services and interim measures, and other rights under applicable institutional policies.



For the purposes of this provision sufficient details include the identities of the parties involved, if known, the conduct allegedly constituting Sexual Misconduct, and the date and location of the alleged incident, if known. This information will be supplemented as necessary with relevant evidence collected during the investigation. The notice should also include the identity of any investigator(s) involved. Notice should be provided via institution email to the party's institution email.

2. Upon receipt of the written notice, the parties shall have at least three business days to respond in writing. In that response, the Respondent shall have the right to admit or deny the allegations, and to set forth a defense with facts, witnesses, and supporting materials. A Complainant shall have the right to respond to and supplement the notice. Throughout the Sexual Misconduct process the Complainant and the Respondent shall have the right to present witnesses and other inculpatory and exculpatory evidence.
3. If the Respondent admits responsibility, the process may proceed to the sanctioning phase or may be informally resolved, if appropriate.
4. An investigator shall conduct a thorough investigation and should retain written notes and/or obtain written or recorded statements from each interview. The investigator shall also keep a record of any party's proffered witnesses not interviewed, along with a brief, written explanation of why the witnesses were not interviewed.
5. An investigator shall not access, consider, disclose, or otherwise use a party's records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional made in connection with the party's treatment unless the party has provided voluntary written consent. This also applies to information protected by recognized legal privilege.
6. The initial investigation report shall be provided to the Complainant, the Respondent, and a party's advisor (if applicable). This report should fairly summarize the relevant evidence gathered during the investigation and clearly indicate any resulting charges or alternatively, a determination of no charges. For purposes of this Policy, a charge is not a finding of responsibility.
7. The Complainant and the Respondent shall have at least 10 calendar days to review and respond in writing to the initial investigation report and directly related information gathered during the investigation. The investigator will review the Complainant's and the Respondent's written responses, if any, to determine whether further investigation or changes to the investigation report are necessary.
8. The final investigation report should be provided to the Complainant, the Respondent, and a party's advisor, if applicable, at least 10 calendar days prior to the Hearing. The final investigation report should also be provided to all Hearing Panel members for consideration during the adjudication process.

Resolution/Hearing: The Respondent and the Complainant, as parties to the matter, may have the option of selecting informal resolution as a possible resolution in certain cases where the parties agree, and it is deemed appropriate by the institution. Where a matter is not resolved through informal resolution a hearing shall be set. All Sexual Misconduct cases shall be heard by a panel of faculty and/or staff. All institutional participants in the Sexual Misconduct resolution process shall receive appropriate annual training as directed by the System Director or Coordinator and required by the Clery Act and Title IX.

In no case shall a hearing to resolve a Sexual Misconduct allegation take place before the investigation report has been finalized. The investigator may testify as a witness regarding the investigation and findings but shall otherwise have no part in the hearing process and shall not attempt to otherwise influence the proceedings outside of providing testimony during the hearing. All directly related evidence shall be available at the hearing for the parties and their advisors to reference during the hearing.



Relevant facts or evidence that were not known or knowable to the parties prior to the issuance of the final investigative report shall be admissible during the hearing. The institution will determine how the facts or evidence will be introduced. The admissibility of any facts or evidence known or knowable by the parties prior to the issuance of the final investigative report, and which were not submitted during the investigation, shall be determined by the institution in compliance with the obligation to provide both parties an equal opportunity to present and respond to witnesses and other evidence. Notice of the date, time, and location of the hearing as well as the selected hearing panel members shall be provided to the Complainant and the Respondent at least 10 calendar days prior to the hearing. Notice shall be provided via institution email to the parties' institution email. Parties may attend the hearing with their advisor.

Hearings shall be conducted in-person or via video conferencing technology. Where the institution determines that a party or witness is unable to be present in person due to extenuating circumstances, the institution may establish special procedures to permit that individual to provide testimony from a separate location. In doing so, the institution must determine whether there is a valid basis for the individual's unavailability, require that the individual properly sequester in a manner that ensures testimony has not been tainted, and make a determination that such arrangement will not unfairly disadvantage any party. Should it be reasonably believed that the individual presented tainted testimony, the hearing panel will disregard or discount the testimony. Parties may also request to provide testimony in a separate room from the opposing party, so long as no party is unfairly disadvantaged, and they have the opportunity to view the testimony remotely and submit follow-up questions.

At all times participants in the hearing process, including parties, a party's advisor, and institution officials, are expected to act in a manner that promotes dignity and decorum throughout the hearing. Participants are expected to be respectful to others and follow procedural formalities outlined by this Policy and the institution. The institution reserves the right to remove any participant from the hearing environment if the participant refuses to adhere to the institution's established rules of decorum.

Each institution shall maintain documentation of the investigation and resolution process, which may include written findings of fact, transcripts, audio recordings, and/or video recordings. Any documentation shall be maintained for seven years.

Additionally, the following standards will apply to Title IX and Non-Title IX Sexual Misconduct hearings respectively:

Title IX Hearings

1. Where a party or a witness is unavailable, unable, or otherwise unwilling to participate in the hearing, including being subject to cross-examination, the hearing panel shall not rely on statements of that party or witness in reaching its determination regarding responsibility. The hearing panel shall not draw an adverse inference against the party or witness based solely on their absence from the hearing or refusal to subject to cross-examination.
2. The parties shall have the right to present witnesses and evidence at the hearing.
3. The parties shall have the right to confront any witness, including the other party, by having [only] their advisor ask relevant questions directly to the witness. The Hearing Officer shall limit questions raised by the advisor when they are irrelevant to determining the veracity of the allegations against the Respondent(s). In any such event, the Hearing Officer shall err on the side of permitting all the raised questions and must document the reason for not permitting any particular questions to be raised.



4. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, shall be deemed irrelevant, unless such questions and evidence are offered to prove that someone other than the Respondent committed the alleged conduct or consent between the parties during the alleged incident.
5. The hearing panel shall not access, consider, disclose, or otherwise use a party's records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional made in connection with the party's treatment unless the party has provided voluntary written consent. This also applies to information protected by recognized legal privilege.
6. Formal judicial rules of evidence do not apply to the resolution process and the standard of evidence shall be a preponderance of the evidence.
7. Following a hearing, the parties shall be simultaneously provided a written decision via institution email of the hearing outcome and any resulting sanctions or administrative actions. The decision must include the allegations, procedural steps taken through the investigation and resolution process, findings of facts supporting the determination(s), determination(s) regarding responsibility, and the evidence relied upon and rationale for any sanction or other administrative action. The institution shall also notify the parties of their right to appeal as outlined below.

Section 9. Possible Sanctions

In determining the severity of sanctions or corrective actions the following should be considered: the frequency, severity, and/or nature of the offense; history of past conduct; an offender's willingness to accept responsibility; previous institutional response to similar conduct; strength of the evidence; and the wellbeing of the university community. The institution will determine sanctions and issue notice of the same, as outlined above.

The broad range of sanctions includes: expulsion; suspension for an identified time frame or until satisfaction of certain conditions or both; temporary or permanent separation of the parties (e.g., change in classes, reassignment of residence, no contact orders, limiting geography of where parties can go on campus) with additional sanctions for violating no-contact orders; required participation in sensitivity training/awareness education programs; required participation in alcohol and other drug awareness and abuse prevention programs; counseling or mentoring; volunteering/community service; loss of institutional privileges; delays in obtaining administrative services and benefits from the institution (e.g., holding transcripts, delaying registration, graduation, diplomas); additional academic requirements relating to scholarly work or research; financial restitution; or any other discretionary sanctions directly related to the violation or conduct.

For suspension and expulsion, the institution must articulate, in its written decision, the substantial evidence relied upon in determining that suspension or expulsion were appropriate. For purposes of this Policy substantial evidence means evidence that a reasonable person might accept to support the conclusion.

Appeals: Appeals may be made in any cases where sanctions are issued, even when such sanctions are held "in abeyance," such as probationary or expulsion. Where the sanction imposed includes a suspension or expulsion (even for one held in abeyance), the following appellate procedures must be provided.



The Respondent (and in cases involving sexual misconduct or other forms of discrimination and/or harassment, the Complainant) shall have the right to appeal the outcome on any of the following grounds: (1) to consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original hearing (or appeal), because such information was not known or knowable to the person appealing during the time of the hearing (or appeal); (2) to allege a procedural error within the hearing process that may have substantially impacted the fairness of the hearing (or appeal), including but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by a conflict of interest or bias by the Title IX Coordinator, Conduct Officer, investigator(s), decision makers(s); or (3) to allege that the finding was inconsistent with the weight of the information. The appeal must be made in writing and must set forth one or more of the bases outlined above and must be submitted within five business days of the date of the final written decision. The appeal should be made to the institution's Vice President for Student Affairs or their designee.

The appeal shall be a review of the record only, and no new meeting with the Respondent or any Complainant is required. The Vice President, or their designee, may affirm the original finding and sanction, affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to the decision-maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The Vice President or his or her designee shall then issue a decision in writing to the respondent within a reasonable time period.

The decision of the Vice President or his or her designee may be appealed in writing within five business days (as determined by the date of the decision letter) to the President of the institution solely on the three grounds set forth above.

The President may affirm the original finding and sanction, affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to any lower decision maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The President decision shall be simultaneously issued in writing to the parties within a reasonable time period. The President's decision shall be the final decision of the institution.

Should the Respondent or Complainant (where applicable) wish to appeal the President's decision, they may request review by the Board of Regents in accordance with the Board of Regents' Policy on Discretionary Review.

Appeals received after the designated deadlines above will not be considered unless the institution or Board of Regents has granted an extension prior to the deadline. If an appeal is not received by the deadline the last decision on the matter will become final.

Recusal/Challenge for Bias: Any party may challenge the participation of any institution official, employee, or student panel member in the process on the grounds of personal bias by submitting a written statement to the institution's designee setting forth the basis for the challenge. The designee shall not be the same individual responsible for investigating or adjudicating the conduct allegation. The written challenge should be submitted within a reasonable time after the individual knows or reasonably should have known of the existence of the bias. The institution's designee will determine whether to sustain or deny the challenge and, if sustained, the replacement to be appointed.



Section 10. Clayton State University EEO Statement

Clayton State University is an equal employment, equal access, and equal educational opportunity and affirmative action institution.

It is the policy of the University to recruit, hire, train, promote and educate persons without regard to race, color, national or ethnical origin, age, disability, gender, religion, sexual orientation, gender identity, or veteran status as required by applicable state and federal laws (including Title VI, Title VII, Title IX, Sections 503, and 504, ADEA, ADA, E.O. 11246, and Rev. Proc. 75-50). Clayton State University is an Affirmative Action/Equal Opportunity Institution. For questions or more detailed information regarding this policy please contact the Clayton State University Department of Human Resources at (678) 466-4230. Individuals requiring disability related accommodations for participation in any event or to obtain print materials in an alternative format, please contact the Disability Resource Center at (678) 466-5445.