



**Sexual Harassment Policy
and
Grievance Procedures Manual**

November 2004

POLICY

The Clark University community depends, for the achievement of its goals, on an atmosphere of trust, tolerance, and respect. The University reaffirms its commitment to providing a working and learning environment that is free of all forms of abusive, harassing or coercive conduct. The University recognizes and seeks to protect the right of all members of the community to be treated with respect and dignity.

Sexual harassment violates federal and Commonwealth of Massachusetts laws including Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Massachusetts General Laws. It is also unlawful to retaliate against a person for filing a complaint or participating in an investigation of sexual harassment. The University will fully comply with all federal and state laws relative to sexual harassment.

The conduct on the part of any member of the University community which inappropriately introduces sexuality into the teaching, learning, or working environment or relationship will not be tolerated. This policy applies to all members of the University community, male or female, who are encouraged to promptly report complaints about sexual harassment, sexual misconduct or inappropriate behavior. Confidentiality will be maintained to the extent that is legally and practically possible to do so. Although the University frequently prefers an informal resolution of a grievance, persons found to be in violation of this sexual harassment policy shall be subject to disciplinary action which may include, but not be limited to, written warning, reprimand, demotion, transfer, suspension or dismissal.

The University also will not tolerate conduct by a non-employee who sexually harasses any member of the University community on University premises or at any other location where the non-employee and the member of the University community are together because of University-assigned or University-sanctioned activities. Independent contractors, vendors and others, who do business with the University are expected to ensure compliance with this policy; and the University, once notified, will take appropriate action if they fail to do so.

Legal Authority

Sexual harassment is a form of sex discrimination which is prohibited by Title VII of the Civil Rights Act of 1964, by Title IX of the Education Amendments of 1972, and by the Commonwealth of Massachusetts statutes. Clark University's Equal Opportunity/Affirmative Action Policy also prohibits sex discrimination.

The Equal Employment Opportunity Commission (EEOC), the federal commission which enforces the Civil Rights Act of 1964, defines sexual harassment in the EEOC's 1980 guidelines on discrimination because of sex as:

unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature [that] constitute[s] sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition

of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Under Massachusetts General Laws, Chapter 151B, sexual harassment in employment is defined to include "sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment."

Under Massachusetts General Laws, Chapter 151C, sexual harassment of students includes "any sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (i) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (ii) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive education environment."

Definition

Sexual harassment, sexual misconduct, inappropriate behavior is distinguished from consenting sexual relationships by the introduction of elements of coercion, threat, repeated unwelcome sexual advances and unwelcome requests for sexual favors, or unwelcome physical conduct of a sexual nature. Such behavior is unacceptable and may require the University to take disciplinary or corrective action. Two kinds of sexual harassment have been identified:

1. Quid Pro Quo

Being asked to respond sexually with the direct or indirect implication that a person's academic or work situation would be improved if he/she complied or hurt if he/she did not.

2. Hostile Environment

Behaviors that create an environment so offensive, intimidating or hostile that it interferes with a person's ability to work or a student's ability to learn or participate in the campus environment. A vast majority of cases fall into this category.

It is the effect of behavior, as defined by the reasonable person standard, not the intent of the person who did the behavior that determines sexual harassment. Unwelcomeness is not dependent solely on the recipient expressly rejecting such behaviors.

A third party may also file a complaint under this policy if the sexual conduct of others in the education or work environment has the effect of substantially interfering with the third party's welfare, academic or work performance.

Examples of Inappropriate Behavior, Sexual Misconduct, or Sexual Harassment

Prohibited acts that constitute sexual harassment may take a variety of forms. The following examples of conduct that may constitute inappropriate behavior, sexual misconduct or sexual harassment when unwelcome and are repeated or create a pattern include, but are not limited to:

- A. Unwelcome sexual propositions, invitations and solicitations.
- B. Threats or insinuations that a person's employment, wages, academic grade, promotional opportunities, classroom or work assignments or other conditions of employment or academic life may be adversely affected by not submitting to sexual advances.
- C. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendos; unwelcome suggestive or insulting sounds or whistles; obscene phone calls.
- D. If not removed when requested, sexually suggestive objects, pictures, videotapes, audio recordings or literature, placed in the work or study area that embarrass or offend individuals. Such material if used in an educational setting should be related to educational purposes.
- E. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- F. Consensual sexual relationships where such relationships lead to favoritism of a student or subordinate employee with whom the teacher or superior is sexually involved and where such demonstrated favoritism adversely affects other students and/or employees.

These actions in and of themselves are not always considered sexual harassment, but when performed repeatedly, or in a manner designed to humiliate or intimidate another, can be found to meet the definition. These behaviors could be used to assist in identifying offensive behaviors but in no way should be construed as exhaustive lists of unacceptable acts. In determining whether the alleged conduct constitutes sexual harassment, consideration should be given to the record of the incident or incidents as a whole and to the totality of the circumstances, including the context in which the alleged incidents occurred.

Sexual harassment may occur between peers. Unwelcome sexual behavior between peers is unacceptable at the University. Staff, faculty and students and other members of the Clark University community who are subject to such offensive behavior by fellow peers may either confront the alleged offender directly or use the complaint resolution mechanism described in the

Grievance Procedures beginning on page 5. Consenting relationships: amorous relationships that might be appropriate in other circumstances are deemed extremely unwise when they occur between a member of the University and a person for whom he/she has a professional responsibility, for example, faculty, administrator, employee, advisor, coach, or residential staff member. Such relationships may also result in an appearance of unfair advantage accruing from the consenting relationship. The coercive power differential inherent in such relationships may render any apparent consent void. It is incumbent upon those with authority not to abuse, or seem to abuse, the power with which they are entrusted. In the event that a sexual harassment complaint is subsequently filed, it may be exceedingly difficult for the respondent to defend him/herself on grounds of mutual consent. The University expects the individual with a supervisory or other decision-making role to bear the responsibility of any negative consequences resulting from his/her consensual relationships and requires the individual in the superior position to disclose the relationship to his/her supervisor, the Director of Human Resources and Affirmative Action, or the Provost.

Responsibility

All members of the University community are responsible for ensuring that their conduct does not sexually harass any other member of the University community. This same responsibility extends to employees of third parties doing business with the University or on University premises and to campus visitors.

Individuals who are aware of, or have experienced, an incident of sexual harassment should promptly report the matter to the Director of Human Resources/Affirmative Action (HR/AA) or, if preferred, one of the other officials as designated in the Grievance Procedures to receive reports.

University faculty, administrators and supervisors have the further responsibility of preventing and eliminating sexual harassment. If administrators, faculty, or supervisors know sexual harassment is occurring, they must take immediate steps to ensure the behavior ceases immediately and the matter is addressed. If administrators, faculty, or supervisors receive a complaint of sexual harassment, or obtain other information indicating possible sexual harassment, there is a responsibility to inform the Director of HR/AA.

GRIEVANCE PROCEDURES

The University has created the following guidelines and procedures for the resolution of grievances alleging violation of its Sexual Harassment Policy. While these procedures provide sanctions for speech and behavior that violate state and federal law, importantly, they also describe ways of resolving informally conflicts and disagreements involving anyone who, at the time of the alleged violation, is either employed by or enrolled at Clark University, as well as non-employee personnel who harass any member of the University community. The procedures are intended to provide a fair, prompt, and reliable mechanism for determining whether the policies of Clark University have been violated and, if so, to provide appropriate resolution.

These procedures are not intended to inhibit or restrict the free expression or exchange of ideas. The procedures address unlawful discriminatory or harassing behavior. The University provides three mechanisms for addressing issues of sexual harassment: (1) Reporting an Incident, (2) Informal Resolution of Disagreements and (3) Filing a Complaint. Each of these procedures is outlined below. Contact the Director of Human Resources/Affirmative Action, 20 Downing Street, 793-7294, for additional guidance on how to handle issues of sexual harassment.

1. Reporting an Incident

In a diverse community, disagreements and conflicts of various degrees of seriousness are inevitable. Many issues are best resolved informally by direct communication between the individuals involved or with the help of a third party. Any member of the Clark University community who feels he/she has experienced inappropriate behavior, sexual misconduct, or sexual harassment can meet with anyone of the following members of the University community to verbally report an incident:

For students: the Dean of Students, the Associate Dean of Students, or the Director of Residential Housing (undergraduate students), the Dean of Graduate Studies (graduate students), or the Provost (undergraduate/graduate students).

For faculty: the Director of Human Resources/Affirmative Action, the Academic Department chair, or the Provost.

For staff: the Director of Human Resources/Affirmative Action, the Executive Vice President, or the Vice President for Planning and Budgets.

The recipient of the report will confer with the Director of Human Resources/Affirmative Action, the Dean of Students, or the Provost to determine a plan of action. In most cases, the Director of HR/AA, the Dean of Students, or the Provost will meet with the alleged harasser to inform him/her of the alleged behavior, providing the individual with a copy of Clark University's sexual harassment policy and encouraging greater awareness of behaviors which may lead to perceptions of sexual harassment.

The Director of HR/AA, the Dean of Students, or the Provost will meet with the alleged harasser in all cases where more than one incident report has been received regarding that individual.

The Director of HR/AA, the Dean of Students, and the Provost are prepared to assist the individual making the report in assessing the incident and to explain the options and resources available. Questions are encouraged; merely discussing an incident in this way does not commit an individual to making a complaint, however, this will not prevent the University from taking further action on its own initiative if it deems it appropriate to do so or if it is required to do so by law.

2. Informal Resolution of Disagreements

Preference for informal resolution: Often, the most effective avenue for informal resolution of complaints is direct conversation with the person or persons alleged to have caused the offense. Reasoned discussion of the issue will often bring about a resolution and new understanding. When a direct conversation is not a desired option, the following members of the University community are designated to discuss complaints:

For students: the Dean of Students, the Dean of Graduate Studies, or the Provost or their designees.

For faculty: the Director of Human Resources/Affirmative Action or the Provost or their designees.

For staff: the Director of Human Resources/Affirmative Action, the Executive Vice-President, or the Vice-President for Planning and Budgets or their designees.

These persons have the responsibility of informing the Director of HR/AA in a timely manner of any complaints they receive, except for complaints involving students against students. If, after discussion with one or more of these persons, the complainant* decides to pursue the matter on her or his own, she or he is free to do so. Alternatively, the complainant may request that the Director of HR/AA (or the Dean of Students or Dean of Graduate Students in complaints involving students against students) discuss the allegations informally with the person complained of in an attempt to end the alleged discrimination or harassment and resolve the issue. Or, the complainant may ask one of the other individuals listed above to assist with the resolution. Should one of these undertake the process for resolution, she or he will so inform the Director of HR/AA (or the Dean of Students or Dean of Graduate Students in complaints

involving students against students). The Director of HR/AA will provide advice on the substantive issues involved and the means for addressing the complaint and its possible resolution. If there is a resolution acceptable to all parties, the matter will not proceed further.

The University may proceed without permission of the complainant if: (1) repeated complaints about the respondent have been received; or (2) the University believes it is in its best interest to do so. All members of the Clark community are expected to cooperate in addressing sexual harassment complaints.

Complaints under informal procedures will be kept confidential, to the extent practicable, except as compelled by law, disclosure of their existence or substance will be limited to those who, in the interests of fairness and problem resolution, have an immediate need to know.

Informal procedures generally will involve efforts to actively arrive at a resolution that both the complainant and the person the complaint is against can agree upon. The person the complaint is against, thus, will be informed of the existence and nature of the complaint and will have an opportunity to respond.

Failure to respond to a complaint, or refusal to participate in informal resolution, will not be considered as an admission of responsibility during any formal proceedings that might arise.

* Note: The term “complainant” is used throughout this document to refer to persons who either report incidents or file signed complaints regarding sexual harassment.

Suggestions for Individual Action

- A. In circumstances not jeopardizing one's personal safety, job, or academic status, communicate clearly to the offender that the behavior is not welcome, and should cease immediately. This can be done verbally or in writing.
- B. Keep a written record documenting as precisely as possible what happened, when the incident took place, how you responded, how you felt after the incident, and any other information which may be helpful later. Should there be any witnesses, include their names in documentation of the incident.
- C. Seek support from a close friend or trusted associate and share your feelings and experiences in order to cope.
- D. Report the situation to the University official or supervisor most directly involved with either the complainant or the person complained about.
- E. Seek advice on how to deal with the situation from either the office of Human Resources and Affirmative Action or from other members of the University community as listed on page 5.

3. Formal Resolution of Disagreements

A. Filing a Complaint

A complaint is generally accepted after good faith efforts to informally resolve a disagreement have proven to be unsatisfactory, unsuccessful, or unadvisable.

An individual who chooses to file a complaint under these procedures must do so with the Director of Human Resources/Affirmative Action, or, in the case of student-to-student issues, complaints may be filed with the Undergraduate Judicial Board or the Graduate Judicial Board. Such a complaint may be filed immediately after an alleged act of discrimination has taken place or after any efforts that may have been undertaken to reach an informal settlement have proven unsuccessful. Complaints must be filed within 300 days of the alleged discrimination or harassment unless there is good reason (as determined by the Director of HR/AA) for having this period extended. Prompt reporting is strongly urged; the longer the delay between the incident(s) and the report, the more difficult it is to investigate and evaluate a complaint.

- 1) A complaint may be made orally or in writing and should include the following:
 - a) Identification of the person or group injured by the alleged harassment.
 - b) Identification of the person or group alleged to have committed the harassment.
 - c) Sufficient information to understand the factual basis for the complainant's belief that harassment occurred and when the harassment occurred.
 - d) A clear and concise description of the incident(s) (may also indicate any remedy desired).
- 2) The Director of HR/AA will meet privately with the complainant to discuss the complaint and to apprise the complainant of the manner in which they will proceed. If the complainant does not wish to submit the grievance in writing the Director will prepare a memorandum outlining the issues and ask the complainant to sign it, verifying it as factual.
- 3) The Director of HR/AA is an impartial fact-finder who makes an objective preliminary determination as to whether the alleged conduct may violate University policy.
- 4) If the Director of HR/AA determines that University policy has not been violated, he/she will dismiss the complaint.

B. Procedures for Complaints Against:

Administrators, Staff, or Campus Police – see Pages 9-10

Faculty and Instructors – see Pages 11-12

Students – see Pages 13-14

Persons Who Are Not Members of the University Community – see Page 14

B1. Procedures for Complaints Against Administrators, Staff, or Campus Police

1) Initial Review

The initial decision as to whether a complaint merits review under these procedures will be made by the Director of Human Resources/Affirmative Action. A complaint will be dismissed at this stage if it does not warrant review because action complained of does not constitute an allegation of sexual harassment; because the alleged behavior does not constitute a violation of the policy; or because the speech or expression complained of is protected or does not violate the law. The complainant will be informed in writing of the decision. No complaint will be accepted that does not pass this initial review. Appeals of this decision may be addressed to the Executive Vice President or the Vice President for Planning and Budgets.

Should the Director of HR/AA conclude that the complaint should go forward, he/she will notify the respondent, provide the respondent with a copy of the complaint, and advise her or him about the procedures, possible sanctions, and forms of relief.

The Director of HR/AA will be responsible for implementing procedures, for maintaining a written or taped record of the proceedings, and for preparing a written statement of the findings. Before any case is investigated, the complainant and the respondent will meet individually with the Director of HR/AA to attempt to clarify the issues and to define the areas of disagreement. If, on the basis of these conversations, the Director of HR/AA is able to bring about a satisfactory resolution of the complaint agreeable to both parties, he/she will register the resolution in all university records, and the matter ends. If no resolution is achieved, the Director of HR/AA will notify the appropriate parties at the start of his/her investigation about the points of agreement or disagreement between the complainant and the respondent.

2) Investigation

The Director of HR/AA or his/her designee shall in confidence examine written evidence, hear testimony for the complainant, the respondent, and such other individuals who are essential to reaching a decision on the validity of the complaint. The complainant has the responsibility to demonstrate, by clear and convincing evidence, that the complaint is valid. Inquiries may include, but are not limited to:

- a) knowledge of the conduct alleged in the complaint;
- b) frequency of occurrence of the alleged conduct;
- c) the dates or time period over which alleged conduct occurred;
- d) the specific relationship of the parties to each other and to other relevant individuals;
- e) the effect of the respondent's alleged conduct on the complainant and other persons in the work place or academic environment.

3) Determination of Complaint

The investigating officer will issue a report to the appropriate authorities once the investigation process is completed. The report will include:

- a) a summary of the complainant's allegations;
- b) a summary of the respondent's response to the allegations;
- c) a citation to any relevant laws or policies;
- d) a summary of the information developed in the course of the investigation;
- e) an analysis of whether it is likely that the alleged conduct occurred and may be a violation of any relevant policy and/or law;
- f) any recommendations for corrective action or disposition.

4) Final Disposition of Complaints

The Director of HR/AA will make recommendations to the Executive Vice President in light of any records of the respondent's past conduct including any discrimination or harassment complaints. The Executive Vice President may accept, reject, or modify the recommendations or may remand the complaint for further consideration or clarification. The Executive Vice President will send a written decision, an explanation of the decision, and determination of any penalty and relief, including dates by which each is to be implemented, to the complainant, the respondent, and the Director of HR/AA. The decision by the Executive Vice President may include one or more of the following actions:

- a) a letter to the complainant indicating dismissal of the complaint because it is determined that the action complained of does not constitute an allegation of sexual harassment; because the alleged behavior does not constitute a violation of the policy; or because the speech or expression complained of is protected or does not violate the law;
- b) a letter of warning to the respondent with a copy placed in his/her official personnel file;
- c) a letter of reprimand to the respondent with a copy placed in his/her official personnel file;
- d) such other disciplinary action as is appropriate for employee violation of University policy;
- e) referral to the appropriate termination procedures, including the *Employee Handbook for Administration and Staff*;
- f) initiation of procedures intended to restore or rectify a loss suffered by the complainant in connection with the incident(s) of sexual harassment;
- g) probation, demotion, suspension, or dismissal of the respondent.

Request for an appeal by the respondent may be made to the President of the University.

B2. Procedures for Complaints Against Faculty or Instructors

1) Initial Review

Once a complaint is filed, the initial decision as to whether it merits review under these procedures will be made by the Director of Human Resources/Affirmative Action and the Provost. A complaint will be dismissed at this stage if it does not warrant review because the action complained of does not constitute an allegation of sexual harassment; because the alleged behavior does not constitute a violation of the policy; or because the speech or expression complained of is protected or does not violate the law. The complainant will be informed in writing by the Provost of the decision. No complaint will be accepted that does not pass this initial review. Appeals of this decision may be addressed to the President.

Should the Director of HR/AA and the Provost conclude that the complaint should go forward, the Provost will notify the respondent, provide the respondent with a copy of the complaint, and advise him/her about the procedures, possible sanctions, and forms of relief.

The Director of HR/AA will be responsible for implementing procedures, maintaining a written record of the proceedings, and for preparing a written statement of the findings. Before any case is reviewed, the complainant and the respondent will meet individually with the Director of HR/AA to attempt to clarify the issues and define the areas of disagreement. If, on the basis of these conversations, the Director of HR/AA is able to bring about a satisfactory resolution of the complaint agreeable to both parties, he/she will register the resolution in all University records, and the matter ends. If no resolution is achieved the Director of HR/AA will notify the appropriate parties at the start of his/her investigation about the points of agreement or disagreement between the complainant and the respondent.

2) Investigation

The Director of HR/AA or his/her designee shall in confidence examine written evidence, hear testimony for the complainant, the respondent, and such other individuals that are essential to reaching a decision on the validity of the complaint. The complainant has the responsibility to demonstrate, by clear and convincing evidence, that the complaint is valid. Inquiries may include, but are not limited to:

- a) knowledge of the conduct alleged in the complaint;
- b) frequency of occurrence of the alleged conduct;
- c) the dates or time period over which the alleged conduct occurred;
- d) the specific relationship of the parties to each other and to other relevant individuals;
- e) the effect of the respondent's alleged conduct on the complainant and other persons in the work place or academic environment.

3) Determination of Complaint

The investigating officer will issue a report to the Provost once the investigation process is completed. The report will include:

- a) a summary of the complainant's allegations;
- b) a summary of the respondent's response to the allegations;

- c) a citation to any relevant laws or policies;
- d) a summary of the information developed in the course of the investigation;
- e) an analysis of whether it is likely that the alleged conduct occurred and may be a violation of any relevant policy and/or law; and
- f) any recommendations for corrective action or disposition.

4) Final Disposition of Complaint

If there is a finding of no violation the Provost will write a letter to the complainant indicating dismissal of the complaint because it is determined that the action complained of does not constitute an allegation of sexual harassment; because the alleged behavior does not constitute a violation of the policy; or because the speech or expression complained of is protected or does not violate the law.

If there is a finding of violation and the respondent does not accept the resolution, or if the Provost feels it is appropriate, the case may be referred to the Committee on Personnel (COP). Faculty and instructors are advised to consult the COP procedures as outlined in the *Faculty Handbook*.

The COP will conduct a full review and will make a recommendation to the President of the University. The Committee shall notify the respondent in writing of its recommendation in his/her case. If requested by the respondent, the Provost and the Chair of COP shall meet with the respondent to convey, within limits of confidentiality, the basis for the decision. The ranges of consequences for faculty who are found to have violated the policy include:

- a) a letter of warning to the respondent with a copy placed in her/his official personnel file;
- b) a letter of reprimand to the respondent with a copy placed in her/his official personnel file;
- c) such other disciplinary action as is appropriate for violation of University policy; or
- d) probation, demotion, suspension, or dismissal of the respondent.

The President may accept, reject, or modify the recommendations made by COP and will make a decision on the disposition of the complaint. After the President has acted upon a COP recommendation, COP will reopen the case for consideration only at the request of the Faculty Review Committee (FRC) based on allegations of procedural error.

B3. Procedures for Complaints Against Students

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

Once a complaint is filed, the initial decision as to whether it merits review under these procedures will be made by the Dean of Students (if the complaint is against an undergraduate student), or the Dean of the Graduate School (if the complaint is against a graduate student) or their designees. A complaint will be dismissed at this stage if it does not warrant review because the action complained of does not constitute an allegation of sexual harassment; because the alleged behavior does not constitute a violation of the policy; or because the speech or expression complained of is protected or does not violate the law. The complainant will be informed in writing of the decision. No complaint will be accepted that does not pass this initial review. Appeals of this decision may be addressed to the Provost.

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

Any non-student member of the Clark community who believes he/she to be the object of sexual harassment or inappropriate behavior by a Clark student may, after having sought resolution through the Director of Human Resources/Affirmative Action, bring a complaint to the appropriate dean. Merely discussing an incident with the Director of HR/AA does not commit one to filing a complaint. However, if the University deems it appropriate, it may take further action on its own initiative or if required to do so by law.

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

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

If the review board finds no violation of University policy, the complaint will be dismissed, and the dean will send a written decision and an explanation of the decision to the complainant and the respondent. A respondent may request an appeal on the grounds of procedural error or new information not available at the time of the hearing to the Provost, whose decision will be final.

B4. Procedures for Complaints Against Persons Who Are Not Members of the University Community:

Individuals who believe they have been sexually harassed by employees of those who do business with the University or by campus visitors should bring their complaints to the Director of Human Resources/Affirmative Action or to any person listed under Informal Resolution of Disagreements (page 6). The Director of HR/AA will investigate the complaint and take appropriate corrective action if he/she finds that sexual harassment has occurred.

Principles

These procedures describe an internal method for seeking redress for alleged violations of the policy. Complaints of discrimination or harassment filed under these procedures will be investigated and resolved as promptly and with as much confidentiality as possible. The University will endeavor to expedite a resolution. However, the length of the process will be somewhat dictated by the volume and nature of the information provided in the complaint. It is anticipated that this process will insure quicker review of complaints than can normally be obtained through state or federal procedures. Students, faculty, and staff members having such complaints are therefore encouraged to pursue them through these internal procedures. Complaints where both parties are former faculty, staff, or students will not be eligible for this review procedure.

a) Deadlines

A complainant will have 300 days following the alleged discrimination or harassment to file a complaint unless there is sufficient reason (as determined by the Director of Human Resources/Affirmative Action) for having this period extended. Prompt reporting is strongly urged; the longer the delay between the incident(s) and the report, the more difficult it is to investigate and evaluate a complaint.

In special circumstances, at the request of a complainant and at the discretion of the Director of Human Resources/Affirmative Action, the processing of a complaint may be deferred until a specified date (e.g., after completion of a course or other academic exercise). Usually such deferral will be for no more than one semester.

b) Withdrawal of Complaints

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

c) Failure to Cooperate

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

d) Confidentiality

The University seeks to eliminate sexual harassment on campus by encouraging students, faculty, and employees to promptly report complaints about sexual harassment. The University acknowledges that some individuals will not file a complaint or make their concerns known unless their identities and the facts of their complaints are not disclosed to others.

Situations involving alleged discrimination or harassment demand special attention to issues of confidentiality. Confidentiality will be maintained in proceedings to the extent that it is practicable. All documents should be marked confidential, and all recipients will be responsible for keeping them confidential. All statements and discussions should be considered confidential as well.

e) Protection Against Retaliation

It is unlawful to retaliate against a person for filing a complaint of sexual harassment or for cooperating in an investigation of a sexual harassment complaint. Complaints of such retaliation should be addressed to the Director of Human Resources/Affirmative Action, who will review and investigate the complaint pursuant to the relevant procedure

f) Deliberate Fabrication of Evidence

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

g) Protection of Respondents

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

h) Record Keeping

The Director of Human Resources/Affirmative Action will maintain confidential records of all complaints received except those brought to the Undergraduate Judicial Board or the Graduate Judicial Board. Such records will contain the complainant's and respondent's names, the outcome of the proceedings, and any sanctions imposed.

i) Other Remedies

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

j) Preservation of Authority

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

Grievance Procedures, is mindful of its responsibility to protect academic freedom and free speech. It recognizes that the parameters of freedom of speech are always being debated. Should changes from that debate or other developments call these procedures into question, the Board, in consultation with the faculty, will review the Policy and Grievance Procedures.

k) Persons to Contact for Guidance

Whether you decide to file a complaint or just need to talk, confidentiality will be maintained in informal and formal proceedings to the extent practicable.

Director of Human Resources/Affirmative Action
20 Downing Street
508-793-7294

Provost
Academic Affairs, Geography Building
508-793-7673

Dean of Students
18 Downing Street
508-793-7423

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

State and Federal Agencies:

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

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

The federal agency charged with handling sexual harassment complaints by students is The Office of Civil Rights at the U.S. Department of Education located at J.W. McCormack Post Office and Courthouse, Room 701, 01-0061. Boston, MA 02109-4557 (617-223-9662).