

# COLLEGE POLICIES



## Affirmative Action/Equal Employment Opportunity Policy

Clinton Community College, in recognition of its educational mission, its social concern, its responsibility for the personal development of individuals, and its concern for the rights of the individual, does hereby express and establish this college policy of Affirmative Action/Equal Employment Opportunity.

It is the policy of Clinton Community College to provide equal opportunity in employment for all qualified individuals without discrimination because of race, color, creed, religion, sex, age, national or ethnic origin, disability, political affiliation, sexual orientation, arrest record, veteran or marital status, or other basis prohibited by law, except as such conditions may constitute bona fide occupations or assignment qualifications. Underscoring this policy is Clinton's strong concern for employees' dignity and well-being and a commitment to provide a safe, productive, and professional work environment.

### TITLE IX Compliance

Clinton Community College does not discriminate on the basis of race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, veteran or marital status in its education programs or activities, including employment and admissions. The Director of Human Services is the designated Title IX Coordinator for matters related to the application of Title IX of the 1972 Education Amendment and its respective regulations. The Director of Human Resources contact information is: Sarah Potter, 225 Moore, 136 Clinton Point Drive, Plattsburgh, NY 12901, (518) 562-4137, sarah.potter@clinton.edu.

For matters impacting Athletic Compliance for Title IX, the Dean of Student Affairs is the coordinator. The Dean for Student Affairs contact information is: John Borner, 231 Moore, 136 Clinton Point Drive, Plattsburgh, NY 12901, (518) 562-4121, john.borner@clinton.edu. The Office for Civil Rights can be contacted at the following: Office for Civil Rights, U.S. Department of Education, 32 Old Slip, 26th Floor, New York, NY 10005-2500.

## Policy Against Harassment and Discrimination/Bias

For the most up-to-date policies, visit [Clinton.edu](http://Clinton.edu).

### SECTION 1: PURPOSE

Clinton Community College believes in the dignity of the individual and recognizes the rights of all people to equal employment and/or educational opportunities free of unlawful discrimination. In this regard, Clinton Community College is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment and/or educational opportunities without being subject to harassment or unlawful discrimination in the workplace. As with unlawful discrimination based on sex and sexual harassment, it is Clinton Community College's policy to provide an employment and educational environment free from unlawful discrimination and harassment based on race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status.

### A. Scope of Policy

This Policy applies to all Clinton Community College students, employees and all personnel in a contractual or other business relationship with Clinton Community College including, for example, applicants, temporary or leased employees, independent contractors, vendors, consultants, volunteers and visitors. Depending on the extent of Clinton Community College's exercise of control, this Policy may be applied to the conduct of non-employees with respect to unlawful harassment and/or discrimination of Clinton Community College employees in the workplace. This Policy applies with equal force on College property as it does at College-sponsored events, programs, and activities which take place at off-campus premises.

### B. Policy Objectives

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

1. notify employees and students about the types of conduct which constitute unlawful discrimination or harassment prohibited by this Policy;
2. inform employees and students about the complaint and resolution procedures established by the College which enable any employee/student who believes (s)he is the victim of unlawful discrimination or harassment to submit a complaint which will be investigated by the College;
3. clearly advise all supervisory staff, administrators, employees, and students that discriminatory treatment based on race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status of employees is strictly prohibited and no such person possesses the authority to harass or discriminate; and
4. notify all employees and students that the College has appointed Compliance Officers who are specifically designated to receive complaints of discrimination based on race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status, and ensure compliance with this Policy.

*NOTE: The name and office locations of the Compliance Officers designated to receive and investigate complaints for the academic year are listed below at the end of this Policy (Section 10). The names and office locations of each Compliance Officer designated to receive and investigate complaints will be listed in the College's Policy and Procedure Manual, the Student Handbook, on the College's web page at [www.clinton.edu](http://www.clinton.edu), and posted in the following locations: Douglas Library, Switchboard/Reception area, Counseling Office, Human Resources Office and the Office of the Dean of Student Affairs.*

### SECTION 2: DEFINITIONS

"Prohibited Discrimination of Employees And/Or Students" Prohibited discrimination of employees and/or students can take the form of any negative treatment of an employee/student, by either a College employee or official, student, or a third party engaged in college-sponsored activities which: (a) negatively impacts an employee's employment opportunities and/or employment benefits, or negatively impacts a student's educational opportunities; and (b) is based upon the employee's/student's race, color, creed, religion, national or ethnic origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status. Prohibited discrimination of employees/students can

also take the form of harassment even where there is no tangible impact upon the employee's employment opportunities and/or employment benefits or the student's educational opportunities. The phrase "prohibited unlawful discrimination" as used in this Policy includes all forms of "prohibited unlawful harassment" (defined below).

"Prohibited Unlawful Harassment" Harassment can constitute a form of prohibited unlawful discrimination under this Policy if it is unwelcome and has the purpose or effect of unreasonably interfering with an individual's work/educational performance, or creating an intimidating, hostile or offensive working/educational environment. Such harassment of employees/students is prohibited by this Policy if it is based upon race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status. In this regard, individuals subject to this Policy should be mindful that conduct or behavior that is acceptable, amusing or inoffensive to some individuals may be viewed as unwelcome, abusive or offensive to others.

"Prohibited Behavior" While it is impossible to list all of the possible forms of unlawful harassment, the following is a list of examples of conduct that may constitute harassment:

- Using slurs or derogatory terms based on race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status.
- Telling derogatory jokes or stories based on race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status.
- Displaying graffiti or other derogatory or insulting writings based on race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status.
- Making degrading comments about a person and/or his or her appearance based on race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status.
- Demeaning or criticizing an individual because of his or her race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status.
- Sabotaging, damaging, or interfering with an individual's work because of that individual's race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status.
- Threatening or intimidating an individual because of his or her race, color, creed, religion, national origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status.

As set forth above, this list is not intended to be all-inclusive. Furthermore, while a single incident of these types of behavior may not create a hostile working/educational environment, if such behavior is severe, persistent or pervasive, or if submission to such conduct is made either explicitly or implicitly a term or condition of employment or receipt of employment benefits or educational outcome, such conduct constitutes prohibited discrimination and/or harassment.

This policy is not intended to restrict freedom of expression, freedom of speech, academic freedom, respectful debate, or other legitimate forms of expression, which are the hallmark of institutions of higher learning. Clinton Community College will consider such legitimate and valued forms of expression when applying this policy and formulating remedial measures pursued as a result of discrimination and/or harassment complaints.

### SECTION 3: POLICY

As with discrimination based on sex and sexual harassment, Clinton Community College prohibits discrimination based on race, color, creed, religion, national or ethnic origin, disability, political affiliation, age, sexual orientation, arrest record, and veteran or marital status and will not tolerate any form of unlawful discrimination or harassment. Clinton Community College will take all steps necessary to prevent and stop the occurrence of unlawful discrimination and/or harassment in the workplace and educational setting.

All employees and students, including but not limited to, Clinton Community College officials and supervisory personnel, are responsible for ensuring a work and educational environment free from prohibited discrimination and harassment. All employees and/or students will be held responsible and accountable for avoiding or eliminating inappropriate conduct that may give rise to a claim of sexual harassment or sex discrimination. Employees and students are encouraged to report violations to a Compliance Officer listed in Section 10 of this Policy and on the College's web page at [www.clinton.edu](http://www.clinton.edu), in accordance with the Complaint Procedure set forth in this Policy. Officials and supervisors must take immediate and appropriate corrective action when instances of prohibited discrimination and/or harassment come to their attention to ensure compliance with this Policy.

Each employee and student is assured, pursuant to Section 6 of this Policy, that retaliation against an individual who makes a complaint or report under this Policy is absolutely prohibited and constitutes, in and of itself, a violation of this Policy.

Any questions regarding the scope or application of this Policy should be directed to a Compliance Officer listed in Section 10 of this Policy and on the College's web page at [www.clinton.edu](http://www.clinton.edu).

### SECTION 4: POLICY ENFORCEMENT

#### A. Complaint Procedure for Employees and/or Students

##### 1. Notification Procedure

Prompt reporting of complaints or concerns is encouraged so that timely and constructive action can be taken before relationships become strained. Reporting of all perceived incidents of prohibited discrimination and/or harassment is encouraged, regardless of the offender's identity or position. An individual who feels aggrieved because of harassment or unlawful discrimination has several ways to make his or her concerns known:

- a) An aggrieved person who feels comfortable doing so should directly inform the person[s] engaging in the harassment or unlawful discrimination that such conduct or communication is offensive and must stop. Clinton Community College encourages early and informal resolutions of disputes, misunderstandings, and offensive treatment before such matters adversely impact upon a person's working or learning environment. If the aggrieved person agrees, the College may arrange for a facilitated meeting between the parties with the intent of resolving concerns related to the incident.  
*NOTE: Confronting the offender is NOT required. All employees and/or students have the right to file a good faith complaint without first communicating with the offender.*
- b) An aggrieved person who does not wish to communicate directly with the individual whose conduct or communication is offensive, or if direct communication with the offending party has not stopped the behavior, shall contact a Compliance Officer listed in Section 10 of this Policy, or a Vice President, or the President.

- c) An aggrieved person alleging harassment or discrimination by anyone with supervisory authority, or alleging failure of supervision to take immediate action on the individual's complaint, shall contact a Compliance Officer, a Vice President, or the President.
- d) In addition to filing a complaint under this policy, an aggrieved person who is a member of a collective bargaining unit, may or may not be entitled to file a grievance through the collective bargaining grievance procedure depending on the particular terms of the governing collective bargaining agreement. Such filing may not, in all cases, trigger an investigation pursuant to this Policy. Consequently, aggrieved persons are encouraged to simultaneously utilize the Complaint Procedure set forth herein, where appropriate.

## 2. Making a Complaint

All complaints should be in writing. All employees and/or students are encouraged to use the Clinton Community College "Complaint of Alleged Discrimination" form. Complaint forms can be obtained from the Human Resources Office, the Office of the Dean of Student Affairs, or from a Compliance Officer, with no questions asked. Because an accurate record of the allegedly objectionable behavior is necessary to resolve a complaint of prohibited discrimination, all complaints should be submitted in writing. If an employee and/or student has any questions or difficulty filling out the complaint form, (s)he can obtain assistance from a Compliance Officer, a Vice President, or the President. All complaints should include: the name of the complaining party, the name of the alleged offender(s), date of the incident(s), description of the incident(s), names of witnesses to the incident(s) and the signature of the complaining party.

Once the complaining party has completed and dated a written complaint, the complaint may be submitted, either by hand delivery or mail, to a Compliance Officer listed in Section 10 below, to any Vice President, or to the President who will then advise the Compliance Officer(s).

Complainants are expected to cooperate with the College's investigation procedures by providing all relevant information relating to the complaint, as are other individuals having relevant or related knowledge or information.

### B. Time for Reporting a Complaint

Prompt reporting of all complaints is strongly encouraged. All employees and/or students should be aware that appropriate resolution of discrimination complaints and effective remedial action oftentimes is possible only when complaints are promptly filed. Furthermore, complaining parties should be aware that statutes of limitations may constrain the time period for instituting legal actions outside of this Policy.

### C. Confidentiality and Privacy

In recognition of the personal nature of discrimination complaints and the emotional impact of alleged discrimination, the College shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements, the Student Code of Conduct, and other laws and regulations regarding employees and/or students. For the protection of all individuals who make complaints or are accused of prohibited discrimination, every witness interviewed during an investigation under this Policy will be advised of the confidentiality requirement and instructed not to discuss the complaint, the investigation, or the persons involved. Bargaining unit members may request representation of their bargaining unit during the investigation interview provided that the bargaining unit representative(s) abides by confidentiality provisions prescribed by this policy. To the extent

complaints made under this Policy implicate criminal conduct, the College may be required by law to contact and cooperate with the appropriate law enforcement authorities.

## D. Acknowledgment of Complaints

Upon receipt of a written complaint, the Compliance Officer(s), Vice President, or President shall endeavor to contact the complainant within 10 business days to confirm that the written complaint has been received. If the complainant does not receive such confirmation promptly, (s)he is encouraged to file a second written complaint or to contact the Compliance Officer(s), Vice President, or President, or his/her designee. The purpose of this acknowledgment procedure is to ensure that all written complaints are received by authorized individuals, carefully processed, and promptly investigated.

## SECTION 5: INVESTIGATION PROCEDURES

### A. Timing of Investigations

The College will promptly investigate all allegations of unlawful discrimination and harassment prohibited by this Policy and shall initiate the investigation within ten (10) business days of the acknowledgement. The College will also attempt to complete investigations under this Policy promptly. The length of the investigation will depend upon the complexity and particular circumstances of each complaint.

### B. Method of Investigation

Investigations will be conducted by the College's Compliance Officer(s), the College's legal counsel, and/or other impartial persons designated by the President, or his/her designee. The primary purposes of all investigations under this Policy will be to determine:

1. Did the conduct complained of occur?;
2. Did the conduct complained of violate this Policy?; and
3. What remedial or preventative steps, if any, are recommended?

Investigations may include: fact-finding interviews, document review, depositions, observations, or other reasonable methods. The College's investigators should pursue reasonable steps to investigate each complaint in a thorough and comprehensive manner. Any notes, memoranda, or other records created by College employees or agents conducting an investigation under this Policy shall be deemed confidential and/or privileged to the extent allowed by law.

### C. Notification to Complaining Party and the Accused Party

The President or his/her designee, shall notify the complainant of the outcome of the investigation with justification for his/her decision. Such notification shall be in writing, include a brief summary of the factual findings and, wherever possible, shall include a summary of any remedial measures that have been or will be taken by the College.

While reasonable efforts will be made to inform the complaining party about the outcome of investigations, the College will nonetheless consider the privacy rights of all parties involved in disseminating information obtained during and through the investigation.

The President or his/her designee, shall notify within fourteen (14) business days following the completion of the investigation the person accused of violating this Policy whether a violation of this Policy was found and what remedial measures, if any, will be taken by the College or recommended to the Board for action.

Other parties, such as witnesses interviewed during the course of an investigation, will generally not be notified of specific findings or recommendations, to facilitate confidentiality.

## D. Remedial Measures

Clinton Community College's primary goal in responding to complaints of prohibited discrimination under this Policy is prevention. This Policy is intended to prevent all forms of unlawful discrimination and harassment in the College and put an end to any prohibited discrimination that is found to have occurred. While disciplinary action may be appropriate in certain instances, punitive measures are not the exclusive means for responding to prohibited discrimination. During the pendency of any investigation being conducted pursuant to this Policy, remedial measures may be taken if appropriate and necessary.

Any individual who is found to have engaged in prohibited discrimination or conduct which may be prohibited by this Policy, may receive education, training, counseling, warnings, discipline, and/or other measures designed to prevent future violations of this Policy. Disciplinary action may include: warnings, suspension, or discharge from employment or enrollment, in the event of a student. Any third party found to have engaged in discrimination or harassment of an employee and/or student may be barred from College property.

If an individual is a member of any union or otherwise covered by a collective bargaining agreement with the College, such individual may exercise any and all rights prescribed by such agreement to challenge the findings and/or disciplinary action in accordance with any processes prescribed by such agreement(s).

Time limitations set forth above in sections A, B, and C may be extended by mutual agreement of the complainant and respondent with the approval of the President, or his/her designee. Such extensions shall be confirmed in writing.

## SECTION 6:

### A. Prohibition Against Retaliation

Retaliation is strictly prohibited by this Policy, the Student Code of Conduct, and by law, against anyone who in good faith reports a suspected violation of this Policy, who assists in making such a complaint, or who cooperates in a harassment or discrimination investigation. Retaliation means taking any adverse action in response to a complaint being made.

Written complaints of retaliation should be brought directly to the Compliance Officer(s), Vice President, or the President, or his/her designee. The written complaint must specify the date(s), time(s), location(s), witness(s) and description of the incident(s). Such complaints will be promptly investigated. If retaliation is found, the person retaliating will be subject to corrective action up to and including termination from employment, or in the case of a student up to and including suspension and/or dismissal, or in the case of a non-employee, an appropriate remedy up to and including termination of the business relationship, in accordance with legal guidelines, College policy, Student Code of Conduct, and any applicable collective bargaining agreement(s).

### B. Prohibition Against False Complaints and Abuse of the Policy

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

## SECTION 7: APPEALS

### A. Process for Employee Complaints

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

1. the investigation procedures were flawed, and/or
2. the investigation procedures were improper, and/or
3. the investigation procedures were not in compliance with this Policy, and/or
4. the decision is not consistent with the facts, or with all elements of this policy.

Upon receipt of an appeal, the Board of Trustees shall appoint an Appeals Committee comprised of a designee of the President, and a member of the Clinton Board of Trustees to consider and review any such appeal. The Committee's consideration and review of any such appeal shall be conducted confidentially. Following a review of the evidence, as well as the information obtained in the investigation process and conclusions derived therefrom, the Committee shall render their recommendation to the Board of Trustees confidentially in an executive session. The Board's decision shall be final. The appellant shall be notified of the decision in writing within ten (10) business days of the decision being rendered.

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

### B. Process for Student Complaints

Any complainant or accused party who wishes to appeal the procedures or decision which the College followed in investigating a written complaint filed under this policy may do so in writing to the Dean of Student Affairs within three (3) business days as outlined in the Student Handbook.

## SECTION 8: RECORD KEEPING

The College shall maintain a written record of all complaints of unlawful discrimination and/or harassment prohibited by this Policy for a period of at least six years. The College shall also document the steps taken with regard to investigations, as well as conclusions reached and remedial action taken, if any. The College shall also maintain these documents for a period of at least six years.

The College records regarding investigations and findings of alleged discrimination shall be maintained separate and apart from personnel and/or educational records, although counseling letters or other letters of reprimand may be maintained in personnel and/or educational files.

## SECTION 9: QUESTIONS

Any questions by employees and/or students of the College about this Policy or potential discrimination should be brought to the attention of the College's Compliance Officer(s), or Vice President(s), or the President. The names, addresses, and

telephone numbers of the College's Compliance Officers for 2018-2019 are listed in Section 10 of this Policy and on the college's web page at [www.clinton.edu](http://www.clinton.edu). The names and office locations of each Compliance Officer designated to receive and investigate complaints will be listed in the College's Policy and Procedure Manual, on the College's web page at [www.clinton.edu/hr](http://www.clinton.edu/hr), and posted in the following locations: Douglas Library, Switchboard/Reception area, Counseling Office, Human Resources Office and the Office of the Dean of Student Affairs.

In addition, employees may contact: (a) the Employee Assistance Service (EAS), 22 U.S. Oval, Suite 218, Plattsburgh, NY 12903, (518) 563-8293 on a confidential basis; (b) the New York State Division of Human Rights Agency Building 1, 2nd Floor, Empire State Plaza, Albany, NY 12220; or (c) the U.S. Equal Employment Opportunity Commission, 6 Fountain Plaza, Suite 350, Buffalo, NY 14202.

In addition, students may contact: (a) the College's Counseling and Advisement Office, Room 147M (562-4199); (b) the U.S. Department of Civil Rights, 200 Independence Avenue, S.W., Room 509F HHH Bldg., Washington, D.C. 20201; or (c) the New York State Division of Human Rights Agency Building 1, 2nd Floor, Empire State Plaza, Albany, NY 12220.

## SECTION 10: COMPLIANCE OFFICERS

### Laurie Bethka

*Accommodative Services Office*  
Clinton Community College  
136 Clinton Point Drive  
Plattsburgh, New York 12901  
Telephone: (518) 562-4252

## OTHER CONTACTS

### Ray M. DiPasquale

*President*

### John Borner

*Dean of Student Affairs*  
Room 229M

### Sarah Potter

*Director of Human Resources*  
Room 225M

## SECTION 11: EFFECTIVE DATE AND POLICY DISSEMINATION

The effective date of this Policy, as amended shall be July 18, 2007. The President shall ensure that this Policy is adequately disseminated and made available to all employees/students of the College. This Policy shall be distributed at the beginning of each academic year with or as part of the College's Policy and Procedure Manual, Student Handbook, and on the College's web page at [www.clinton.edu/hr](http://www.clinton.edu/hr). In addition, copies of this Policy and Complaint Form shall be maintained in the office of the Human Resources/Affirmative Action Officer, the Office of the Dean of Student Affairs, the Center for Community & Workforce Development, and the Douglas Library. This policy will be reviewed from time to time, as needed.

Upon the effective date of this Policy, the provisions of this Policy shall supersede and replace all prior College policies and regulations regarding employee and student discrimination and harassment, and related complaint procedures with the exception of the "Clinton Community College Policy Against Sex Discrimination and Sexual Harassment."

# Policy Against Sex Discrimination and Sexual Harassment

*For the most up-to-date policies, visit [Clinton.edu](http://Clinton.edu).*

## SECTION 1: PURPOSE

Clinton Community College believes in the dignity of the individual and recognizes the rights of all people to equal employment and/or educational opportunities free of unlawful discrimination. In this regard, Clinton Community College is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment and/or educational opportunities without being subject to sexual harassment or unlawful discrimination of any kind in the workplace or educational environment. It is Clinton Community College's policy to provide an employment and educational environment free from unwelcome sexual advances, requests for sexual favors, and other gender-based verbal or physical conduct or communications which have the purpose or effect of unreasonably interfering with an individual's work/educational performance or creating an intimidating, hostile or offensive work/educational environment.

### A. Scope of Policy

This Policy applies to all Clinton Community College students, employees and all personnel in a contractual or other business relationship with Clinton Community College including, for example, applicants, temporary or leased employees, independent contractors, vendors, consultants, volunteers and visitors. Depending on the extent of Clinton Community College's exercise of control, this Policy may be applied to the conduct of non-employees with respect to sexual harassment and/or sex discrimination of Clinton Community College employees in the workplace and students in the educational environment. This Policy applies with equal force on College property as it does at College-sponsored events, programs, and activities, which take place at off-campus premises.

### B. Policy Objectives

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

1. Notify employees and students about the types of conduct, which constitute sex discrimination or sexual harassment based on gender or sexual orientation prohibited by this Policy;
2. Inform employees and students about the complaint and resolution procedures established by the College, which enable any employee/student who believes (s)he is the victim of sex discrimination or sexual harassment to submit a complaint, which will be investigated by the College;
3. Clearly advise all supervisory staff, administrators, employees, and students that discriminatory treatment based on sex, sexual orientation, or sexual harassment of individuals is strictly prohibited and no such person possesses the authority to harass or discriminate; and
4. Notify all employees and students that the College has appointed Compliance Officers who are specifically designated to receive complaints of discrimination based on sex or sexual harassment and ensure compliance with this Policy.

*NOTE: The name and office location of the Compliance Officers designated to receive and investigate complaints are listed at the end of this Policy (Section 10). The name(s) and office location(s) of each Compliance Officer designated to*

receive and investigate complaints will be listed in the College's Policy and Procedure Manual, on the College's web page at [www.clinton.edu](http://www.clinton.edu), and posted in the following locations: Douglas Library, Switchboard/Reception area, Counseling Office, Human Resources Office, and the Office of the Dean of Student Affairs.

## SECTION 2: DEFINITIONS

"Prohibited Unlawful Discrimination of Employees And/Or Students" Prohibited unlawful discrimination of employees and/or students can take the form of any negative treatment of an employee/student, by either a College employee or official, student, or a third party engaged in school-sponsored activities which: (a) negatively impacts an employee's employment opportunities and/or employment benefits or negatively impacts a student's educational opportunities; and (b) is based upon the employee's/student's sex or sexual orientation. Prohibited discrimination of employees/students can also take the form of harassment even where there is no tangible impact upon the employee's employment opportunities and/or employment benefits or student's educational opportunities. The phrase "prohibited unlawful discrimination" as used in this Policy includes all forms of "prohibited harassment" (defined below).

"Sexual Harassment" Sexual harassment is prohibited including, but not limited to, inappropriate forms of behavior described by the Equal Employment Opportunity Commission as follows:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or student's educational outcome;
2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual (e.g., promotion, transfer, demotion, termination) or the learning outcome in the case of a student.
3. Such gender-based conduct has the purpose or effect of unreasonably interfering with an individual's work/educational performance, or of creating an intimidating, hostile or offensive working/educational environment.

This policy is not intended to restrict freedom of expression, freedom of speech, academic freedom, respectful debate, or other legitimate forms of expression, which are the hallmark of institutions of higher learning. Clinton Community College will consider such legitimate and valued forms of expression when applying this policy and formulating remedial measures pursued as a result of discrimination and/or harassment complaints.

Specific forms of behavior that Clinton Community College considers sexual harassment are set forth below. Every conceivable example cannot be delineated herein, and thus the descriptions below should not be interpreted in any way as being all-inclusive.

*Verbal:* Unwelcome verbal language including jokes, comments, teasing or threats related to an employee's/student's sex, sexual activity, sexual orientation and/or body parts whether or not said in that person's presence including, but not limited to: sexual innuendoes; slurs; suggestive, derogatory, or insulting comments or sounds; whistling; jokes of a sexual nature; sexual propositions; threats; comments on a person's appearance that make the person feel uncomfortable because of his or her sex or sexual orientation; continuing to ask someone for dates or to meet after work/class after the person has made it clear that he or she does not want to go; sexually-oriented comments about an employee's/student's anatomy that are unwelcome, unreasonably interfere with an individual's performance, or create an intimidating, hostile or offensive work/educational environment; and unwelcome

sexual advances or demands for sexual favors.

*Nonverbal:* Unwelcome written language showing or displaying pornographic or sexually explicit objects or pictures; graphic commentaries; luring or obscene gestures in the workplace/educational setting; staring at a person's body in a sexually suggestive manner; sexually-related gestures or motions; sending sexually graphic material through the College's e-mail system or other electronic communication devices (e.g. voice mail) or using the College's mail or computers to send and/or view such material.

*Physical:* Unwelcome physical conduct, including but not limited to: petting, pinching, grabbing, holding, hugging, kissing, tickling, massaging, displaying private body parts, coerced sexual intercourse, assault, persistent brushing up against a person's body, unnecessary touching and flashing or other unwelcome physical conduct.

While a single incident of these types of behavior may not create a hostile working/educational environment, if such behavior is severe, persistent or pervasive, or if submission to such conduct is made either explicitly or implicitly a term or condition of employment or receipt of employment benefits, or negatively impacts a student's educational opportunities, such conduct constitutes prohibited sexual harassment.

## SECTION 3: POLICY

As with unlawful discrimination involving race, color, creed, religion, national origin, disability, political affiliation, age, arrest record, and veteran or marital status, Clinton Community College prohibits discrimination on the basis of sex or sexual orientation and will not tolerate any form of sexual harassment. Clinton Community College will take all steps necessary to prevent and stop the occurrence of sexual harassment and/or sex discrimination in the workplace and educational setting.

While the overwhelming majority of unlawful sexual harassment is directed at women by men, the law equally protects men from sexual harassment by women, and same-sex sexual harassment.

All employees/students, including but not limited to, Clinton Community College officials and supervisory personnel, are responsible for ensuring an environment free from sexual harassment and sex discrimination. All employees and students will be held responsible and accountable for avoiding or eliminating inappropriate conduct that may give rise to a claim of sexual harassment or sex discrimination. Employees and students are encouraged to report violations to a Compliance Officer (listed in Section 10 of this Policy and on the College's web page at [www.clinton.edu](http://www.clinton.edu)), in accordance with the Complaint Procedure set forth in this Policy. Officials and supervisors must take immediate and appropriate corrective action when instances of sexual harassment and/or sex discrimination come to their attention to assure compliance with this Policy.

Each employee and student is assured pursuant to Section 6 of this Policy, that retaliation against an individual who makes a complaint or report under this Policy is absolutely prohibited and constitutes, in and of itself, a violation of this Policy.

Any questions regarding the scope or application of this Policy should be directed to a Compliance Officer, listed in Section 10 of this Policy and on the College's web page at [www.clinton.edu](http://www.clinton.edu).

## SECTION 4: POLICY ENFORCEMENT

### A. Complaint Procedure for Employees and/or Students

#### 1. Notification Procedure

Prompt reporting of complaints or concerns is encouraged so that timely and constructive action can be taken before relationships become strained. Reporting of all perceived

incidents of sexual harassment and/or sex discrimination is encouraged, regardless of the offender's identity or position. An individual who feels aggrieved because of sexual harassment or sex discrimination has several ways to make his or her concerns known:

- a) An aggrieved person who feels comfortable doing so should directly inform the person[s] engaging in the harassment or discrimination that such conduct or communication is offensive and must stop. Clinton Community College encourages early and informal resolutions of disputes, misunderstandings, and offensive treatment before such matters adversely impact upon a person's working or learning environment. If the aggrieved person agrees, the College may arrange for a facilitated meeting between the parties with the intent of resolving concerns related to the incident.

*NOTE: Confronting the offender is NOT required. All employees and/or students have the right to file a good faith complaint without first communicating with the offender.*

- b) An aggrieved person who does not wish to communicate directly with the individual whose conduct or communication is offensive, or if direct communication with the offending party has not stopped the behavior, shall contact a Compliance Officer listed in Section 10 of this Policy, or a Vice President, or the President.
- c) An aggrieved person alleging sexual harassment or discrimination by anyone with supervisory authority, or alleging failure of supervision to take immediate action on the individual's complaint, shall contact a Compliance Officer, a Vice President, or the President.
- d) In addition to filing a complaint under this policy, an aggrieved person who is a member of a collective bargaining unit may or may not also be entitled to file a grievance through the collective bargaining grievance procedure depending on the particular terms of the governing collective bargaining agreement. Such filing may not, in all cases, trigger an investigation pursuant to this Policy. Consequently, aggrieved persons are encouraged to simultaneously utilize the Complaint Procedure set forth herein, where appropriate.

## 2. Making a Complaint

All complaints should be in writing. All employees and/or students are encouraged to use the College's "Complaint of Alleged Discrimination" form. Complaint forms can be obtained from the Human Resources/Affirmative Action Office or the Office of the Dean of Student Affairs, with no questions asked. Because an accurate record of the allegedly objectionable behavior is necessary to resolve a complaint of prohibited discrimination, all complaints should be submitted in writing. If an employee and/or student has any questions or difficulty filling out the complaint form, (s) he can obtain assistance from a Compliance Officer, or a Vice President, or the President. All complaints should include: the name of the complaining party, the name of the alleged offender(s), date of the incident(s), description of the incident(s), names of witnesses to the incident(s) and the signature of the complaining party.

Once the complaining party has completed and dated a written complaint the complaint may be submitted, either by hand delivery or mail, to a Compliance Officer listed in Section 10 below, to any Vice President, or to the President who will then advise the Compliance Officer(s).

Complainants are expected to cooperate with the College's investigation procedures by providing all relevant information relating to the complaint, as are other employees and/or students having relevant or related knowledge or information.

## B. Time for Reporting a Complaint

Prompt reporting of all complaints is strongly encouraged. All employees and/or students should be aware that appropriate resolution of unlawful discrimination complaints and effective remedial action oftentimes is possible only when complaints are promptly filed. Furthermore, complaining parties should be aware that statutes of limitations may constrain the time period for instituting legal actions outside of this Policy.

## C. Confidentiality and Privacy

In recognition of the personal nature of unlawful discrimination complaints and the emotional impact of alleged discrimination, the College shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements, the Student Code of Conduct, and other laws and regulations regarding employees and/or students. For the protection of all individuals who make complaints or are accused of prohibited discrimination, every witness interviewed during an investigation under this Policy will be advised of the confidentiality requirement and instructed not to discuss the complaint, the investigation, or the persons involved. Bargaining unit members may request representation of their bargaining unit during the investigation interview provided that bargaining unit representative(s) abide by the confidentiality provisions prescribed by this policy. To the extent complaints made under this Policy implicate criminal conduct, the College may be required by law to contact and cooperate with the appropriate law enforcement authorities.

## D. Acknowledgment of Complaints

Upon receipt of a written complaint, the Compliance Officer(s), Vice President, or President shall endeavor to contact the complainant within 10 business days to confirm that the written complaint has been received. If the complainant does not receive such confirmation promptly, he/she is encouraged to file a second written complaint or contact a Compliance Officer, Vice President, or President, or his/her designee. The purpose of this acknowledgment procedure is to ensure that all written complaints are received by authorized individuals, carefully processed and promptly investigated.

## SECTION 5: INVESTIGATION PROCEDURES

### A. Timing of Investigations

The College will promptly investigate all allegations of sex discrimination and sexual harassment and shall initiate the investigation within ten (10) business days of the acknowledgement. The College will also attempt to complete investigations under this Policy promptly. The length of the investigation will depend upon the complexity and particular circumstances of each complaint.

### B. Method of Investigation

Investigations will be conducted by the College's Compliance Officer(s), the College's legal counsel, and/or other impartial persons designated by the President, or his/her designee. The primary purposes of all investigations under this Policy will be to determine:

1. Did the conduct complained of occur?;
2. Did the conduct complained of violate this Policy?; and
3. What remedial or preventative steps, if any, are recommended?

Investigations may include: fact-finding interviews, document review, depositions, observations, or other reasonable methods. The College's investigators should pursue reasonable steps to investigate each complaint in a thorough and comprehensive manner. Any notes, memoranda, or other records created by the College employees or agents conducting an investigation under this Policy shall be deemed confidential and/or privileged to the extent allowed by law.

### **C. Notification to Complainant Party and the Accused Party**

The President, or his/her designee, shall notify the complainant of the outcome of the investigation with justification for his/her decision. Such notification shall be in writing, include a brief summary of the factual findings and, wherever possible, shall include a summary of any remedial measures that have been or will be taken by the College.

While reasonable efforts will be made to inform the complaining party about the outcome of investigations, the College will nonetheless consider the privacy rights of all parties involved in disseminating information obtained during and through the investigation.

The President, or his/her designee, shall notify within fourteen (14) business days following the completion of the investigation the person accused of violating this Policy whether a violation of this Policy was found and what remedial measures, if any, will be taken by the College or recommended to the Board for action.

Other parties, such as witnesses interviewed during the course of an investigation, will generally not be notified of specific findings or recommendations, to facilitate confidentiality.

### **D. Remedial Measures**

Clinton Community College's primary goal in responding to complaints of prohibited unlawful discrimination under this Policy is prevention. This Policy is intended to prevent all forms of sex discrimination and sexual harassment in the College and put an end to any prohibited discrimination that is found to have occurred. While disciplinary action may be appropriate in certain instances, punitive measures are not the exclusive means for responding to prohibited discrimination. During the pendency of any investigation being conducted pursuant to this Policy, remedial measures may be taken if appropriate and necessary.

Any individual who is found to have engaged in prohibited discrimination or conduct which may be prohibited by this Policy, may receive education, training, counseling, warnings, discipline, and/or other measures designed to prevent future violations of this Policy. Disciplinary action may include: warnings, suspension, or discharge from employment or enrollment, in the event of a student. Any third party found to have engaged in sexual discrimination of an employee and/or student may be barred from College property.

If an individual is a member of any union or otherwise covered by a collective bargaining agreement with the College, such individual may exercise any and all rights prescribed by such agreement to challenge the findings and/or disciplinary action in accordance with any processes prescribed by such agreement(s).

Time limitations set forth above in sections A, B, and C may be extended by mutual agreement of the complainant and respondent with the approval of the President, or his/her designee. Such extensions shall be confirmed in writing.

## **SECTION 6:**

### **A. Prohibition Against Retaliation**

Retaliation is strictly prohibited by this Policy, the Student Code of Conduct, and by law, against anyone who in good faith reports a suspected violation of this Policy, who assists in making such a complaint, or who cooperates in a harassment or unlawful discrimination investigation. Retaliation means taking any adverse action in response to a complaint being made.

Written complaints of retaliation should be brought directly to a Compliance Officer, Vice President(s), or the President, or his/her designee. The written complaint must specify the date(s), time(s), location(s), witness(es), and a description of

the incident(s). Such complaints will be promptly investigated. If retaliation is found, the person retaliating will be subject to corrective action up to and including termination from employment, or in the case of a student, up to and including suspension and/or dismissal, or in the case of a non-employee, an appropriate remedy up to and including termination of the business relationship, in accordance with legal guidelines, College policy, Student Code of Conduct, and any applicable collective bargaining agreement(s).

### **B. Prohibition Against False Complaints and Abuse of the Policy**

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

## **SECTION 7: APPEALS**

### **A. Process for Employee Complaints:**

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

1. the investigation procedures were flawed, and/or
2. the investigation procedures were improper, or
3. the investigation procedures were not in compliance with this Policy,
4. the decision is not consistent with the facts, or with all elements of this policy.

Upon receipt of an appeal, the Board of Trustees shall appoint an Appeals Committee comprised of a designee of the President, and a member of the Clinton Board of Trustees to consider and review any such appeal. The Committee's consideration and review of any such appeal shall be conducted confidentially. Following a review of the evidence, as well as the information obtained in the investigation process and conclusions derived therefrom, the Committee shall render their recommendation to the Board of Trustees confidentially in an executive session. The Board's decision shall be final. The appellant shall be notified of the decision in writing within ten (10) business days of the decision being rendered.

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

### **B. Process for Students Complaints:**

Any complainant or accused party who wishes to appeal the procedures or decision which the College followed in investigating a written complaint filed under this Policy, may

do so in writing to the Dean of Student Affairs within three (3) business days as outlined in the Student Handbook.

## SECTION 8: RECORD KEEPING

The College shall maintain a written record of all complaints of sex discrimination and/or sexual harassment for a period of at least six years. The College shall also document the steps taken with regard to investigations, as well as conclusions reached and remedial action taken, if any. The College shall also maintain these documents for at least six years.

The College records regarding investigations and findings of alleged discrimination shall be maintained separate and apart from personnel and/or educational records, although counseling letters and/or other letters of reprimand may be maintained in personnel files and/or educational files.

## SECTION 9: QUESTIONS

Any questions by employees and/or students of the College about this Policy or potential discrimination should be brought to the attention of the College's Compliance Officer(s), or the President. The names, addresses, and telephone numbers of the College's Compliance Officers are listed in Section 10 of this Policy and on the College's web page at [www.clinton.edu](http://www.clinton.edu). The name(s) and office location(s) of each Compliance Officer designated to receive and investigate complaints will be listed in the College's Policy and Procedure Manual, the Student Handbook, on the College's web page at [www.clinton.edu](http://www.clinton.edu), and posted in the following locations: Douglas Library, Switchboard/Reception area, Counseling Office, Human Resources Office and the Office of the Dean of Student Affairs

In addition, employees may contact: (a) the Employee Assistance Service (EAS), 22 U.S. Oval, Suite 218, Plattsburgh, NY 12903, (518) 563-8293 on a confidential basis; (b) the New York State Division of Human Rights Agency Building 1, 2nd Floor, Empire State Plaza, Albany, NY 12220; or (c) the U.S. Equal Employment Opportunity Commission, 6 Fountain Plaza, Suite 350, Buffalo, NY 14202.

In addition, students may contact: (a) the College's Counseling and Advisement Office, Room 147M (562-4199); (b) the U.S. Department of Civil Rights, 200 Independence Avenue, S.W., Room 509F HHH Bldg., Washington, D.C. 20201; or (c) the New York State Division of Human Rights Agency Building 1, 2nd Floor, Empire State Plaza, Albany, NY 12220.

## SECTION 10: CONTACTS

### Ray M. DiPasquale

*President*

### John Borner

*Dean of Student Affairs*  
Room 229M

### Sarah Potter

*Director of Human Resources*  
Room 225M

## SECTION 11: EFFECTIVE DATE AND POLICY DISSEMINATION

The effective date of this Policy, as amended, shall be July 18, 2007. The President shall ensure that this Policy is adequately disseminated and made available to all employees/students of the College. This Policy shall be distributed at the beginning of each academic year with or as part of the College's Policy and Procedure Manual, Student Handbook, and on the College's web page at [www.clinton.edu](http://www.clinton.edu). In addition, copies of this Policy and Complaint Form shall be maintained in the office of the Human Resources/Affirmative Action Officer, the Office of the Dean of Student Affairs, the Center for Community & Workforce Development, and the Douglas Library. This policy will be reviewed from time to time, as needed.

Upon the effective date of this Policy, the provisions of this Policy shall supersede and replace all prior College policies and regulations regarding employee and/or student sex discrimination, sexual harassment, and related complaint procedures with the exception of the "Clinton Community College Policy Against Harassment and Discrimination."

## Code of Student Conduct

*For the most up-to-date Code of Student Conduct, visit [Clinton.edu](http://Clinton.edu).*

### Student Responsibility at Clinton Community College

Being a responsible citizen in our college community is an important part of your education on our campus. Existing and thriving in this community requires you to possess and display responsibility, integrity and decency, and to depend on these qualities in other people. As student members of this community, we call upon you to help us support the wide array of personal, academic, and career goals you share by adhering to the Code of Student Conduct that follows. Doing so will enable this community to support you in a positive, progressive, and inclusive manner as you pursue your goals.

### Interpretation of Regulations

The purpose of publishing disciplinary regulations is to give students general notice of prohibited behavior. This Code is not written with the specificity of a criminal statute.

### Procedural Protections

Students accused of disciplinary violations are entitled to the following procedural protections:

1. To be informed of the charge and alleged misconduct upon which the charge is based within a reasonable time frame.
2. To request that the Dean of Student Affairs, or his/her designee, resolve the case at an informal disciplinary conference.
3. To be allowed reasonable time to prepare a defense.
4. To be informed of the evidence upon which a charge is based and accorded an opportunity to offer a relevant response.
5. To call and confront relevant witnesses.
6. To be assured of confidentiality, in accordance with the terms of the federal Family Educational Rights and Privacy Act (FERPA).
7. To request that any person conducting a disciplinary conference or serving as a disciplinary board member or hearing officer be disqualified on the ground of personal bias.
8. To be considered innocent of the charges until proven

- responsible by a preponderance of the evidence.
9. To be advised by a person of their choice as outlined in this code.
  10. Note: decisions are made based on the preponderance of evidence in each case as reviewed by the appropriate disciplinary board.

### Authority for Student Discipline

Ultimate authority for student discipline is vested in the President of the College. Disciplinary authority may be delegated to College administrators, faculty members, committees, and organizations, as set forth in this Code, or in other appropriate policies, rules, or regulations adopted by the President or the Board of Trustees.

### Student Participation

Students are asked to assume positions of significant responsibility in the College disciplinary system in order that they might contribute their skills and insights to the resolution of disciplinary cases.

### Definitions

1. Unless otherwise stated, the following definitions will apply:
  - "College" means Clinton Community College including all functions of the Faculty Student Association.
2. "Faculty Student Association" (FSA) refers to the corporation that is responsible for administering the following auxiliary services of the College:
  - a) Residence Hall Complex
  - b) Child Care Center
  - c) Bookstore
  - d) Dining Facilities
3. "Student" refers to anyone registered to take one or more semester hours at the College or at any college off-campus location.
4. "Code" refers to the College Code of Student Conduct.
5. "Board" refers to the Board of Trustees of the College.
6. "President" refers to President of the College or his/her designee.
7. "Member of the College community" includes any person who is a student, faculty member, College official or any other person employed by the College or the Faculty Student Association (FSA).
8. "College premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College, and/or the Faculty Student Association.
9. "Policy" is defined as the written regulations of the College as found in, but not limited to:
  - a) Code of Student Conduct
  - b) Student Handbook
  - c) Residence Hall Handbook
  - d) College Catalog
10. "Functions" of the College are those activities or events that are initiated, supported, recognized or promoted by the College. Such activities include, but are not limited to:
  - a) Teaching
  - b) Research
  - c) Administration
  - d) Student Activities
11. "Weapon" is defined in accordance with state law and includes any object or substance designed to inflict a wound or cause injury.
12. "Accused Student" is defined as any student accused of violating this code.
13. "Complainant" is defined as any person who submits a statement alleging that a student violated this code.
14. "Force" is defined as the use of physical violence and/or imposing on someone physically to gain sexual access.

Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.

15. "Retaliation" is defined as any action by any person that is perceived as intimidating, hostile, harassing, retributive, or violent that occurred as a result of the making and follow-up of a report of a violation of this code of conduct.
16. "Consent" must be clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable, clear permission regarding willingness to engage in (and the conditions of) sexual activity.
  - a) Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
  - b) Previous relationships or prior consent cannot imply consent to future sexual acts.
  - c) Lack of consent may also exist when the victim is unable to give consent, either because of the victim's use of drugs, alcohol, or other substances, or because of a mental disorder or developmental or physical disability.

### Inherent Authority

The College reserves the right to take necessary and appropriate action to protect the safety and well being of the campus community. Such action may include pursuing disciplinary action for any violation of state or federal law — on or off-campus — that affects the College's educational interests.

### Disciplinary Action While Criminal Charges are Pending

Students may be accountable both to civil authorities and to the College for acts that constitute violations of the law and of this Code. Disciplinary action at the College will normally proceed during the pendency of criminal proceedings, and will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced.

### Interim Suspension

The Dean of Student Affairs, or his/her designee, may suspend a student from the College immediately for an interim period pending disciplinary or criminal proceedings, or medical evaluation.

The interim suspension will become immediately effective without prior notice whenever there is evidence that the continued presence of the student at the College poses a substantial and immediate threat to others, or to the stability and continuance of normal College functions.

During an interim suspension, the student shall be denied access to the campus (including classes), and shall be denied access to any electronic services of the college, including distance learning, e-mail, and/or all other college activities or privileges in which the student may otherwise be able to participate.

A student suspended on an interim basis will be given a prompt opportunity to appear personally before the Dean of Student Affairs, or his/her designee, in order to discuss the following issues only:

1. The reliability of the information concerning the student's conduct, including the matter of his or her identity.
2. Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on College premises poses a substantial and immediate threat to others or to the stability and continuance of normal College functions.

## Standards of Classroom Behavior

The primary responsibility for managing the classroom environment rests with the faculty. Students who engage in any prohibited or unlawful acts that result in disruption of a class may be directed by the faculty member to leave the class for the remainder of the class period. A disciplinary conference or disciplinary hearing must precede longer suspensions from a class, or dismissal on disciplinary grounds.

Faculty members are encouraged to specify in their syllabi any types of behavior not listed in this Code that they consider disruptive, or that would otherwise compromise the quality of their classroom environment.

For more information, please contact the office of the Vice President for Academic Affairs.

## Prohibited Conduct

Conduct in violation of this Code for which disciplinary sanction will be imposed include:

1. Dishonesty — Acts of dishonesty include but are not limited to:
  - a. Violation of the College Policy on Academic Honesty
  - b. Furnishing false information to any College official, faculty member or office, forgery, alteration, or misuse of any College document, record, or instrument of identification
  - c. Tampering with the election of any College recognized student organization
2. Safety and Security — Any violent behavior is prohibited. This includes, but is not limited to:
  - a. Physical abuse
  - b. Verbal abuse
  - c. Intimidation
  - d. Harassment
  - e. Coercion
  - f. Behavior that is considered stalking
  - g. Dating violence and domestic violence
  - h. Any conduct which threatens or endangers the health or safety of any person
3. Disruption or obstruction of College functions.
4. Attempted or actual theft of, or defacement/damage (vandalism) to property of the College or property of a member of the College community or other personal or public property.
5. Hazing — an act, which endangers the mental or physical health or safety of a student for the purpose of initiation, admission into, affiliation with, or as a condition for membership in a group or organization. The scope of hazing is not limited to groups or organizations recognized by the College.
6. Failure to comply with directions of College officials, security officers, or law enforcement officers who have identified themselves and who are acting in performance of their duties, and/or failure to identify oneself to these persons when requested to do so.
7. Unauthorized possession, duplication or use of keys to any College premises or unauthorized entry to or use of College premises or Faculty Student Association premises.
8. Use, possession or distribution of narcotics, other controlled substances, or drug paraphernalia except as expressly permitted by law, or public impairment resulting from the unlawful use thereof on College, or FSA property or at College/FSA sponsored/supervised functions off campus. Any student who becomes impaired after using controlled substances or who becomes physically violent, aggressive or uncooperative with College, FSA, or security staff is in violation of this section of the Code of Conduct.
9. Possession or distribution of alcoholic beverages on College or FSA premises. Public intoxication, whether on College or FSA property, use/possession/distribution of alcohol and/or public intoxication while at a college sponsored/supervised function off-campus is also prohibited.
10. Unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on College/FSA premises.
11. Obstructions of the free flow of pedestrian or vehicular traffic on College premises or at College/FSA sponsored/supervised functions.
12. Conduct which is disorderly, lewd, or indecent (including inappropriate language in public areas), breach of peace; or aiding, abetting, or procuring another person to breach the peace on College/FSA premises or at functions sponsored by, or participated in, by the College.
13. Sexual misconduct — Acts of sexual misconduct include but are not limited to:
  - a. Non-consensual sexual intercourse (or attempts to commit same) which is defined as any sexual intercourse, however slight, with any object, by a man or woman upon a man or woman, that is without consent and/or by force. Intercourse includes: vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.
  - b. Non-consensual sexual contact (or attempts to commit same) which is defined as any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman that is without consent and/or by force.
  - c. Sexual exploitation which is defined as occurring when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:
    - Invasion of privacy
    - Prostituting another student
    - Non-consensual video or audio taping of sexual activity
    - Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex)
    - Engaging in voyeurism
    - Knowingly transmitting an STI or HIV to another student
    - Exposing one's genitals in non-consensual circumstances
    - Inducing another to expose their genitals
    - Sexually-based stalking and/or bullying may also be forms of sexual exploitation
  - d. Sexual Harassment is defined as unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the college's education program and/or activities, and is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.
  - e. Sexual Violence is defined as physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent, including, but not limited to rape, sexual battery, and sexual coercion

**\*Further information and definitions relating to sexual misconduct can be found in the College Catalog, the Student Handbook, and on the College website at [www.clinton.edu](http://www.clinton.edu).**
14. Theft or other abuse of computer resources (College and

FSA), including but not limited to:

- a. In accordance with the Digital Millennium Copyright Act (DMCA), College policy also forbids the copying, distribution, downloading, and uploading of copyrighted materials on any personal or College computer system. These materials include, but are not limited to, text (including e-mails and web information), graphics, art, photographs, music, film, and software.
  - b. Unauthorized entry into a file to use, read, or change the contents, or for any other purpose.
  - c. Unauthorized transfer of a file.
  - d. Unauthorized use of another individual's user identification or password or PIN.
  - e. Unauthorized use of data intended for another individual.
  - f. Unauthorized use of computing/data processing equipment.
  - g. Use of computing resources to interfere with the work of another student, faculty member or College official.
  - h. Use of computing resources to send obscene or abusive materials.
  - i. Use of computing resources to interfere with normal operation of the College computing system.
  - j. Use of computers for personal purposes unrelated to educational program or campus activities.
15. Abuse of the College disciplinary system, including but not limited to:
- a. Failure to obey the summons of a disciplinary body, i.e., the Dean of Student Affairs, and the Campus Disciplinary Boards.
  - b. Falsification of any incident report to any college, FSA, or security official or any disciplinary body is prohibited.
  - c. Disruption or interference with the orderly conduct of a disciplinary proceeding.
  - d. Attempting to discourage an individual's proper participation in, or use of, the disciplinary system.
  - e. Attempting to influence the impartiality of a member of a disciplinary body prior to, and/or during the course of, the disciplinary proceeding.
  - f. Harassment (verbal, non-verbal or physical) and/or intimidation of a member of a disciplinary body prior to, during, and/or after disciplinary proceedings.
  - g. Failure to comply with the sanction(s) imposed under the Student Code by a Disciplinary Board.
  - h. Influencing or attempting to influence another person to commit an abuse of the disciplinary system.
  - i. Retaliation in any form.
16. Violators of the Digital Millennium Copyright Act who have illegally shared copyrighted files are subject to civil penalties of between \$750 and \$150,000 per song. As of 2008, past pre-litigation settlements offered by copyright owners such as the Recording Industry Association of America (RIAA) have ranged from \$3,000 to \$4,000 and up. Additionally, a court may, at its discretion, grant the copyright owner reasonable attorney fees. Although prosecution of students for this type of file sharing is extremely rare, 17 USC § 506 lays out criminal penalties for intentional copyright infringement which can include fines and jail time.
17. Violation of published College policies, rules or regulations, filed in the office of the Dean of Student Affairs. Such regulations or policies may include the College Policy Against Harassment and Discrimination, Policy Against Sex Discrimination and Sexual Harassment, computer use policy, residence hall lease agreement and accompanying regulations, as well as those regulations relating to hazing, entry and use of College facilities, use of amplifying equipment, campus demonstrations, parking rules and regulations, and regulations governing student organizations.
18. Violation of federal, state or local law on College/FSA

premises or at College/FSA sponsored or supervised activities.

19. Smoking is permitted in designated smoking areas only.

## Sanctions

The Lower Disciplinary Board may impose the following sanctions.

1. **Warning** — Notice to the offender, orally or in writing, that continuation or repetition of the wrongful conduct within a period of time stated in the warning may be cause for additional disciplinary action.
2. **Censure** — Written reprimand for violation of specified regulation, with notice of more severe disciplinary sanction in the event of being found responsible for any further violation(s) of any College regulation within a period stated in the letter of reprimand.
3. **Community Service** — Service to the College or community to compensate for violation of the Code. This may include substance abuse education and/or counseling.
4. **Restitution** — Reimbursement for theft, damage to, or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damages.
5. **Residence Hall Probation** — Notice to residence hall offenders that any further finding of responsibility before the Lower Disciplinary Board or Administrative Hearing Officer will likely result in the student's removal from the residence hall community.
6. **Bans** — Students can be banned from any College or FSA facility for a defined period of time.
7. **Residence Hall Suspension** — Removal and exclusion from the residence halls, dining hall, and associated property, without refund, as set forth in the notice of suspension for a defined period of time. Students can be excluded from participation in privileges or extracurricular College activities as set forth in the notice of disciplinary probation for a specified period of time.
8. **Suspension** — Exclusion from classes and other privileges or activities as set forth in the notice of suspension for a defined period of time.
9. **Expulsion** — Termination of student status for an indefinite period. The conditions of re-admission, if any, will be stated in the order of expulsion.
10. **Other Sanctions** — Other sanctions may be imposed instead of, or in addition to, those specified in sections (1) through (9) of this part. Service or research projects may also be assigned.

## Disciplinary Process

### Standards of Due Process

The purpose of campus disciplinary proceedings is to provide a fair evaluation of an accused student's responsibility for violating College regulations. Formal rules of evidence will not be applied, nor will deviations from prescribed procedures necessarily invalidate a decision, unless significant prejudice to a student respondent or the College may result.

For example, the College reserves the right to adapt these procedures as necessary to accommodate issues and situations unique to online students and online learning.

### Case Referrals

Any person may refer a student or a student group or organization suspected of violating this Code to the Dean of Student Affairs, or his/her designee.

Those referring cases are normally expected to serve as the complainant, and to present relevant evidence in disciplinary hearings or conferences.

### Conference and Disciplinary Board Referrals

The Dean of Student Affairs, or his/her designee, will conduct a preliminary review to determine whether the alleged misconduct might result in expulsion or suspension from the College. Students not subject to suspension or expulsion will be entitled to an informal disciplinary conference with the Dean of Student Affairs, or his/her designee. Students who are subject to suspension or expulsion will be entitled a fact-finding hearing before the Lower Disciplinary Board.

Students referred for a fact-finding hearing by the Dean of Student Affairs or his/her designee, may elect to have their cases resolved in accordance with *Disciplinary Conferences* sections of this Code. Such an election must be in writing, affirming that the student is aware a disciplinary hearing is being waived and that the full range of sanctions may be imposed, including suspension or expulsion from the College.

The Dean of Student Affairs, or his/her designee, may defer proceedings for alleged minor violations of this Code for a period not to exceed ninety days. Pending charges may be withdrawn thereafter, at the discretion of the Dean of Student Affairs, or his/her designee.

### Disciplinary Conferences

Students may choose to have an administrative hearing with the Dean of Student Affairs and his/her designee in lieu of a fact-finding hearing when the student does not dispute the basic facts, admits responsibility, and waives his/her right to a recorded, fact-finding hearing. Further, the student must agree to waive his/her rights to appeal the outcome and sanctions of the disciplinary conference in writing. Disciplinary conferences are not recorded. The waiver form and outcomes will be kept in the student's file. Student rights include:

- Written notice of the specific charges at least (5) business days prior to the scheduled conference.
- Reasonable access (during College business hours) to the case file prior to and during the conference. The case file consists of materials, which would be considered "educational records," pursuant to the Family Educational Rights and Privacy Act of 1974; personal notes of College staff members or complainants are not included.
- An opportunity to respond to the evidence and to call relevant and necessary witnesses.
- A right to be accompanied by an advisor.

Timeline extensions: If extraordinary circumstances prevent any steps from occurring within the stated time frame, all parties will be promptly notified and will be given an estimated time for the step to occur. Participants may also request an extension from the College, which should be granted if it will not unduly prejudice the rights of the other party.

### More than (1) Accused Student

In hearings involving more than one accused student, the Chair of the Lower Disciplinary Board, at her/his discretion, may choose to hold the hearings separately or jointly. In these cases, the Chair of the Lower Disciplinary Board would require students attending joint disciplinary hearings to either sign a waiver or give verbal consent.

### Lower Disciplinary Board

#### Membership

The Lower Disciplinary Board will consist of the following five (5) members: two students, two faculty members and one college staff member. The Faculty Council, upon recommendation from the President, will approve the faculty members. The Dean of Student Affairs will approve the students.

A quorum will consist of three members. The Dean of Student Affairs, or his/her designee, will be responsible for training and providing administrative support to the Lower Disciplinary Board.

The Dean of Student Affairs, or his/her designee, may establish an ad hoc disciplinary board whenever the regular disciplinary board is not constituted, is unable to obtain a quorum, or is otherwise unable to hear a case. An ad hoc disciplinary board will be composed of three members, including at least one student.

Members of the Lower Disciplinary Board who are charged with a violation of this Code or with a criminal offense may be suspended from their positions by the Dean of Student Affairs, or his/her designee, during the period of the charges against them. Members found responsible for any such violation or offense may be disqualified from any further participation in the College disciplinary system.

#### Process

The following procedural guidelines will be applicable in hearings conducted by the Lower Disciplinary Board:

1. The Dean of Student Affairs will appoint a hearing officer from the membership of the board, who will conduct the hearing. He or she may participate in board deliberations and discussions, but will only vote in the event of a tie.
2. The Dean of Student Affairs, or his/her designee, will give accused students notice of the hearing date and the specific charges against them at least five business days in advance. Notice will be by personal delivery or by certified mail to the last address provided by the student to the College. Accused students will be accorded reasonable access to the case file, which will be retained in the Dean of Student Affairs office.
3. The hearing officer may call relevant witnesses, after consultation with the Dean of Student Affairs. Requests must be personally delivered or sent by certified mail. College students and employees are expected to comply with requests issued pursuant to this procedure unless compliance would result in significant and unavoidable personal hardship, or substantial interference with normal College activities, as determined by the President of the College.
4. BE ADVISED, the Lower Board hearing is the only opportunity the complainant and the accused student will have to present factual evidence regarding any violation.
5. Both the complainant and accused student will have the right to an advisor (excluding legal counsel) to advise him/her. The advisor may be present at the disciplinary hearing but may not act or speak on the student's behalf. The role of the advisor is limited to suggesting relevant questions, which the presiding officer may direct to a witness, and providing confidential advice to the complainant or accused student. If a student desires an advisor and is unable to secure one, the Dean of Student Affairs may appoint a qualified faculty member to act as an advisor. Advisors must be given adequate time to review the case.
 

Even if accompanied by an advisor, an accused student must respond to inquiries from the presiding officer and the disciplinary board.

In consideration of the limited role of an advisor, and of the compelling interest of the College to expeditiously conclude the matter, the work of the disciplinary board will not — as a general practice — be delayed due to the unavailability of an advisor.
6. Accused students who fail to appear after proper notice will be deemed to have pled "not responsible" to the charges pending against them. A disciplinary hearing may be conducted in their absence, if necessary, at the discretion of the chair of the Lower Disciplinary Board.
7. Disciplinary hearings will be closed to the public, except for

the immediate members of the respondent's family. An open disciplinary hearing may be held, at the discretion of the hearing officer, if requested by the respondent.

8. The hearing officer will exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the disciplinary hearing. The hearing officer may exclude any person, including the accused students who disrupts a disciplinary hearing.
9. Disciplinary hearings will be recorded. Board deliberations will not be recorded. If requested, students involved in the hearing may have access to listen to the tapes through the Dean of Student Affairs, but may not have a copy.
10. Any party may challenge a disciplinary board member or the hearing officer on the grounds of personal bias. Board members may be disqualified by the hearing officer, or upon majority vote of the voting members, conducted by secret ballot. The Dean of Student Affairs may disqualify the hearing officer.
11. Witnesses will be asked to affirm that their testimony is truthful, and may be subject to charges of violating this Code by intentionally providing false information to the College.
12. Prospective witnesses, other than the complainant and the respondent, will be excluded from the disciplinary hearing during the testimony of other witnesses. All parties, the witnesses, and the public will be excluded during Board deliberations, which will not be recorded or transcribed.
13. The charges against the respondent must be established by a preponderance of the evidence in order for the board to return a finding of "responsible" and to levy sanctions. For sexual harassment investigations, preponderance of evidence is the appropriate burden of proof for decision-makers in these cases.
14. Formal rules of evidence will not be applicable in disciplinary proceedings conducted pursuant to this Code. The hearing officer will respect the confidentiality of all persons involved in the disciplinary process in accordance with FERPA & HIPPA. The chair of the Lower Board will admit into evidence all information considered reasonably relevant to the case.
15. Complainants and accused students (not their advisors) will be given an opportunity to ask relevant questions of those witnesses who testify at the disciplinary hearing. Questioning: The accused and complainant in cases involving sex discrimination, including sexual harassment and sexual assault, may not directly question or cross-examine each other. Each may submit their questions to the disciplinary panel which will be responsible for asking the questions.
16. Board members may ask questions of the parties and all witnesses. They may also take judicial notice of matters, which would be within the general experience of College students and faculty members.
17. If, and only if, a determination of responsibility is made, the past disciplinary record of the accused student may be supplied to the board and be considered during the determination of sanctions. Any determination of responsibility will be supported by brief written findings that will be placed in the case file and made available to the accused student.
18. Only members of the Lower Disciplinary Board or Upper Disciplinary Board shall be present when making deliberations on a pending case. When determining sanctions the Chair of the Lower Disciplinary Board may seek input from individuals familiar with student(s) found responsible and/or familiar with the case being adjudicated.

## **Mediation**

Mediation is encouraged as an alternative means to resolve some disciplinary cases. The Dean of Student Affairs will inform complainants and accused students, if and when appropriate, of mediation resources. If both the complaining and responding parties express interest in a mediated settlement, the Vice President, in the exercise of his or her discretion, may decline to process a complaint until the parties in a non-academic misconduct case make a reasonable attempt to achieve a mediated settlement. To be binding in a disciplinary case, the Dean of Student Affairs must approve any mediated settlement.

## **Student Groups and Organizations**

Student groups and organizations may be charged with violations of this Code.

A student group or organization and its officers may be held collectively and individually responsible when violations of this Code are committed by those associated with the group or organizations that have received the consent or encouragement of the group or organization or of the group's or organization's leaders or officers.

The officers or leaders or any identifiable spokesperson for the student group or organization may be directed by the Dean of Student Affairs to take appropriate action designed to prevent or end violations of this Code by the group or organizations. Failure to make reasonable efforts to comply with the Vice President's order will be considered a violation of this Code, both by the officers, leaders or spokesperson for the group or organization and by the group or organization itself.

Sanctions for group or organization misconduct may include revocation of recognition, as well as other appropriate sanctions.

## **Appeals**

### **Upper Disciplinary Board**

#### **Purpose**

The Upper Disciplinary Board will not retry the case presented to the Lower Disciplinary Board. If a student does not appear for a judicial hearing before the Lower Judicial Board, s/he will have waived their right for an appeal of the sanction to the Upper Disciplinary Board based on the criteria in the categories of sufficiency of evidence and due process; however, the student maintains his/her right to appeal sanctions based on the criteria in the categories of fairness/appropriateness of sanctions and newly discovered evidence. The Upper Board will only consider the following issues:

1. Sufficiency of the evidence — Whether the facts in the case were enough to find that the accused student violated the Student Code.
2. Due process — Whether the original hearing was conducted fairly in light of the charges and evidence presented, and according to procedures set forth in the Student Code.
3. Fairness/appropriateness of sanctions — Whether the penalty imposed by the Lower Board was appropriate for the violation the accused student was found to have committed.
4. Newly discovered evidence — Whether there was evidence, which was not known to the accused student at the time of the Lower Board hearing that is sufficient to change the decision made by the Lower Board.

#### **Membership**

The Upper Disciplinary Board will consist of the following five (5) members: two students, two faculty members and one

college employee. The Faculty Council upon recommendation from the President will approve the faculty members. The Dean of Student Affairs will approve the students.

A quorum will consist of three members. The Dean of Student Affairs, or his/her designee, will be responsible for training and providing administrative support to the Upper Disciplinary Board.

The Dean of Student Affairs, or his/her designee, may establish an ad hoc disciplinary board, whenever the regular disciplinary board is not constituted, is unable to obtain a quorum, or is otherwise unable to hear a case. An ad hoc disciplinary board will be composed of three members, including at least one student.

A member of the Upper Disciplinary Board who is charged with a violation of this Code or with a criminal offense may be suspended from his/her position by the Dean of Student Affairs, or his/her designee, during the pendency of the charges against them. Members found responsible of any such violation or offense may be disqualified from any further participation in the College disciplinary system.

### Process

The following procedural guidelines will be applicable in disciplinary hearings conducted by the Upper Disciplinary Board:

1. Any appeal by the accused student of the Lower Disciplinary Board's finding or sanctions must be made in writing to the Office of the Dean of Student Affairs within three (3) business days. The accused student must state which of the above issues he/she wants to address in the appeal, and set forth the reasons why the Upper Board should overturn the Lower Board's decision and/or sanction. If a student has successfully submitted an appeal to the Upper Disciplinary Board, sanctions imposed by the Lower Disciplinary Board will be held in abeyance until resolved by the Upper Disciplinary Board.
2. A sanctioned student's appeal must be held within seven (7) business days of receiving notice of students' appeal. A one-day notice of disciplinary hearing is considered appropriate advance notice.
3. The Dean of Student Affairs will appoint a hearing officer from the membership of the board, who will conduct the disciplinary hearing. He or she may participate in board deliberations and discussions, but will only vote in the event of a tie. The hearing officer shall bring into evidence the recordings maintained by the Lower Disciplinary Board in the original case.
4. The accused student will have the right to an advisor (excluding legal counsel) to advise him/her. The advisor may be present at the disciplinary hearing but may not act on the student's behalf at the disciplinary hearing. If a student desires an advisor and is unable to secure one, the Dean of Student Affairs may appoint a qualified faculty member to act as advisor. Advisors must be given adequate time to review the case.

The role of an advisor will be limited to providing confidential advice to the accused student.

Even if accompanied by an advisor, an accused student must respond to inquiries from the presiding officer and the disciplinary board.

In consideration of the limited role of an advisor, and of the compelling interest of the College to expeditiously conclude the matter, the work of the disciplinary board will not — as a general practice — be delayed due to the unavailability of an advisor.

5. If an accused student fails to appear at the Upper Disciplinary Board after proper notice, his/her appeal will be dismissed and the findings and sanctions of the Lower Disciplinary Board will be imposed.

6. Disciplinary hearings will be closed to the public, except for the immediate members of the respondent's family. An open disciplinary hearing may be held, at the discretion of the hearing officer, if requested by the respondent.
7. The hearing officer will exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the disciplinary hearing. The hearing officer may exclude any person, including the accused student, who disrupts a disciplinary hearing.
8. Disciplinary hearings will be recorded. Board deliberations will not be recorded.
9. The accused student may challenge a disciplinary board member or the hearing officer on the grounds of personal bias. Board members may be disqualified by the hearing officer, or upon majority vote of the voting members, conducted by secret ballot. In the event of a disqualification, the Dean of Student Affairs will appoint an alternate.
10. The Upper Disciplinary Board determination will be made on the basis of whether the Lower Board abused its discretion when making the determination of responsibility or in imposing sanctions. Majority vote will decide the case.
11. The Upper Disciplinary Board may uphold the finding of the Lower Disciplinary Board or may overturn the finding. If the finding is overturned on due process grounds or because of newly discovered evidence, the Lower Board will conduct a new hearing. If the finding is overturned due to insufficient evidence, any violation, which is not found to be supported by sufficient evidence, will be dismissed. If the finding is upheld, the Upper Disciplinary Board may uphold the sanctions of the Lower Disciplinary Board or may impose lesser, but not greater, sanctions.
12. The decision of the Upper Disciplinary Board will be reduced to writing, and a copy given to the student by registered or certified mail, or by personal service.
13. There will be no appeal of the Upper Disciplinary Board's decision.

### General Disciplinary Rules

1. **Voluntary Withdrawal** — Upon the approval of the Dean of Student Affairs or the President and after an admission of responsibility to the charge, a student may elect to withdraw from the College to avoid a disciplinary hearing on the complaint and the imposition of a disciplinary penalty. A voluntary withdrawal will be entered upon the record of the student. Agreement to a voluntary withdrawal will be in writing and will not be appealable. In the event of readmission to the College, the record of voluntary withdrawal will remain upon the student's record. The College reserves the right to set conditions for readmission as part of the withdrawal process. Students who choose to withdraw without the approval of the Dean of Student Affairs should understand that any pending disciplinary action would be "on hold" until such time as he/she returns to Clinton Community College.
2. **Dismissal in the Interest of the College** — For good cause shown and upon application of the student charged in a complaint, the Dean of Student Affairs or the President may dismiss a charge contained in a complaint in the interests of the college on such conditions as may be approved. The student will consent to such dismissal and the attendant conditions and the dismissal will not be appealable. If the student has complied with the conditions of the dismissal in the interests of the College within the time provided by the Dean of Student Affairs or the President, the charges will be deemed fully dismissed and the record of the student expunged. All records related to such charges will be destroyed.

- 3. Jeopardy** — A finding of not responsible at any level of proceedings will bar any subsequent reconsideration of the matter at any higher level. A finding of violation of a lesser-included charge will be deemed to be a finding of not responsible to the higher charge.
- 4. Time** — Time will be calculated so that the first day is excluded and the last day of the period is included. A business day is any day when the college's administrative offices are open.
- 5. Affirmative Finding** — In all cases the officer or body having authority to act must make an affirmative finding that the facts support the charge prior to rendering a determination of responsibility.
- 6. Adjournments** — Any adjournment requested by any party will be requested on notice to all parties.

## Bias Crimes Prevention

### Hate Crimes and the Law

Clinton Community College strives to protect all members of the college community by preventing and prosecuting bias or hate crimes that occur within the college's jurisdiction.

Hate crimes, also called bias crimes or bias-related crimes, are criminal activity motivated by the perpetrator's bias or attitude against an individual victim or group based on perceived or actual personal characteristics, such as their race, religion, ethnicity, gender, sexual orientation, or disability. Hate/bias crimes have received renewed attention in recent years, particularly since the passage of the federal Hate/Bias Crime Reporting Act of 1990 and the New York State Hate Crimes Act of 2000 (Penal Law Article 485).

Penalties for bias-related crimes are very serious and range from fines to imprisonment for lengthy periods, depending on the nature of the underlying criminal offense, the use of violence or previous convictions of the offender. Perpetrators who are students will also be subject to campus disciplinary procedures where sanctions including dismissal are possible.

In addition to preventing and prosecuting hate/bias crimes, Clinton Community College strives to address bias-related activities that do not rise to the level of a crime. These activities are referred to as bias incidents and are defined as acts of bigotry, harassment, or intimidation directed at a member or group within the college community based on national origin, ethnicity, race, age, religion, gender, sexual orientation, disability, veteran status, color, creed, or marital status. These incidents may be addressed through the campus conduct code. Bias-related incidents can be reported to the Dean of Student Affairs, Room 227 of the Main Academic Building, or by calling 562-4120. Please refer to the Policy Against Harassment and Discrimination/Bias for more information.

If you are a victim of, or witness to, a hate/bias crime on campus, report it to the Dean of Student Affairs, who will investigate and follow the appropriate adjudication procedures.

Victims of bias crimes or bias incidents can avail themselves of counseling and support services from the campus as follows: Counseling & Advisement Office, Room 147M.

### Procedures for Responding to Complaints of Sex Discrimination, Sexual Harassment and Sexual Violence

#### Definitions and Rights

Sex discrimination is defined as all forms of: sexual harassment, sexual assault, and sexual violence by employees, students, or third parties against employees, students, or third parties. Students, College employees, and third parties are prohibited from harassing other students and/or employees whether or not the incidents of harassment occur on the college campus

and whether or not the incidents occur during working hours.

**Alternate arrangements:** Complainant has the right to request alternative arrangements when the complainant does not want to be in the same room as the accused during the hearing. These alternative arrangements must enable both parties and the hearing panel to hear each other.

**Burden of Proof:** The burden of proof in cases of sexual harassment and sexual violence is "preponderance of the evidence". This test asks whether it is "more likely than not" that the sexual harassment or sexual violence occurred. If the evidence presented meets this standard, then the accused must be found responsible.

**Equal rights for the accused and complainant:** Any rights or processes offered to an accused are also offered to a complainant. For example, the right to an appeal, right to representation or an advisor, and right to call witnesses, must all be offered equally, if at all.

**Informal resolution procedures:** Informal resolution procedures, such as mediation, are optional and may be used when the College determines that it is appropriate and the parties are in agreement about using it. Mediation may not be used in cases involving sexual violence.

**Notice of Outcome:** Student complainants in sexual violence incidents have an absolute right to be informed of the outcome, essential findings, and sanctions of the hearing, in writing, in a way consistent with federal and state law. The complainant and accused shall be notified within 5 days of the hearing.

**Confidentiality:** The college will protect the privacy of all parties to a complaint or other report of sexual harassment and sexual violence to the extent possible. When the college receives complaints of sexual harassment or sexual violence, the college has an obligation to respond in a way that limits the effects of the sexual harassment and sexual violence and prevents its recurrence. Information will be shared as necessary in the course of an investigation with people who need to know, such as investigators, witnesses, and the accused. If you are unsure of someone's duties and ability to maintain your privacy, ask them before you talk to them. Certain staff are obligated by law to maintain confidentiality, including the counseling center and the local rape crisis center off-campus.

## What To Do If You Have Been Sexually Assaulted

### Procedures for on-campus disciplinary action of an alleged sexual assault

- Contact the Dean of Student Affairs, 518-562-4121.
- These allegations will be taken seriously, and the college will provide prompt and equitable resolution of student and employee sex complaints.
- The accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding.
- Both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.
- For cases of sexual assault or sexual violence, both the complainant and accused students have the same rights of appeal to the Upper Disciplinary Board. In addition, both the accused and complainant have access to witness submitted statements prior to the hearing.
- Options for changing an academic or living situation can be discussed with the Dean of Student Affairs if so requested

- by the victim and if such changes are reasonably available.
- Support for victims is available through the Counseling and Advisement Office on campus; Sexual Assault Services can be contacted at 1-877-212-2323 or through a referral to a community agency.
- No campus, or an officer, employee, or agent of a campus may retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual with respect to the implementation of any provision of this policy.
- **If the assault happened within the last 5 days, consider going to the emergency room at CVPH, the Alice Hyde Medical Center, or Adirondack Medical Center for an exam by a Sexual Assault Nurse Examiner (SANE).** These emergency rooms offer nurses specially trained in collecting evidence in cases of sexual assault. Having this evidence collected does not mean you have to pursue criminal charges. The hospital will hold any evidence the SANE collects for 30 days while you decide whether you would like to pursue criminal charges. It will be easier for your nurse to collect evidence if you don't bathe, shower, douche, brush your teeth, eat, drink, or change your clothes before going to the hospital. The CVPH SANE program can be contacted at (518) 562-7370. The Alice Hyde SANE program can be contacted at (518) 483-3000 x626. The Adirondack Medical Center SANE program can be contacted at (518) 897-2439.
- **Even if you don't want to have an exam with a SANE program nurse, consider getting medical care.** You may have injuries you are unaware of, and a doctor can help you obtain emergency contraceptive and medicine to prevent sexually transmitted infections.
- **If you would like the police to initiate an investigation and pursue criminal charges, you will need to make a police report.** If the assault occurred outside the Plattsburgh City limits, the New York State police can be contacted at (518) 563-3761 (**Clinton Community College and its residence halls are located within the jurisdiction of the New York State Police**). If it occurred inside the city, Plattsburgh City Police can be contacted at (518) 563-3411. If it occurred on the SUNY Plattsburgh campus, the University Police can be contacted at (518) 564-2022. Campus Security at Clinton Community College can also contact the police for you. Campus Security can be reached by contacting Capt. Mark Silver at (518) 562-4215.
- **If the person who assaulted you is a Clinton Community College student** or if the assault occurred on Clinton Community College property and you wish to have the school take disciplinary action, you may contact the Office for Student Affairs, at (518) 562-4120. The College will explain the college disciplinary process to you and assist you in moving through the process of initiating a disciplinary hearing.

### Annual Security Report

Clinton Community College's Annual Security Report (In compliance with the Clery Act) is available in hard copy through the Office of the Dean of Student Affairs (229 Moore Building) or by visiting [www.clinton.edu/student-services/crimestatistics.xml](http://www.clinton.edu/student-services/crimestatistics.xml).

## Student Rights Under FERPA

The Family Educational Rights and Privacy Act (FERPA) afford eligible students certain rights with respect to their education records. (An "eligible student" under FERPA is a student who is 18 years of age or older or who attends a postsecondary institution.) These rights include:

1. The right to inspect and review the student's education records within 45 days after the day the Clinton Community College receives a request for access. A student should submit to the registrar a written request that identifies the record(s) the student wishes to inspect. The school official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the school official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.
2. The right to request the amendment of the student's education records that the student believes is inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

A student who wishes to ask the school to amend a record should write the school official responsible for the record, clearly identify the part of the record the student wants changed, and specify why it should be changed.

If the school decides not to amend the record as requested, the school will notify the student in writing of the decision and the student's right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.

3. The right to provide written consent before the university discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

The school discloses education records without a student's prior written consent under the FERPA exception for disclosure to school officials with legitimate educational interests. A school official is a person employed by Clinton Community College in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health staff); a person serving on the board of trustees; or a student serving on an official committee, such as a disciplinary or grievance committee. A school official also may include a volunteer or contractor outside of Clinton Community College who performs an institutional service of function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, or collection agent or a student volunteering to assist another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibilities for Clinton Community College.

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by Clinton Community College to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

**Family Policy Compliance Office**  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

FERPA permits the disclosure of PII from students' education records, without consent of the student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the student, §99.32 of FERPA regulations requires the institution to record the disclosure. Eligible students have a right to inspect and review the record of disclosures. A postsecondary institution may disclose PII from the education records without obtaining prior written consent of the student:

- To other school officials, including teachers, within Clinton Community College whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in §99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met. (§99.31(a)(1))
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as a State postsecondary authority that is responsible for supervising the university's State-supported education programs. Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35)
- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31(a)(4))
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31(a)(10))
- Information that the school has designated as "directory information" under §99.37. (§99.31(a)(11)). Directory information includes the following items:
  - Name
  - Address (City and State of Residence only)
  - Level (freshman or sophomore)
  - Field of student (major)
  - Enrollment Status (Including credit load, full or part-time status)
  - Dates of attendance
  - Degree awarded and date conferred
  - Awards and Honors received
  - Prior attendance at other schools
  - Participation in officially recognized activities or sports
- To a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, subject to the requirements

of §99.39. The disclosure may only include the final results of the disciplinary proceeding with respect to that alleged crime or offense, regardless of the finding. (§99.31(a)(13))

- To the general public, the final results of a disciplinary proceeding, subject to the requirements of §99.39, if the school determines the student is an alleged perpetrator of a crime of violence or non-forcible sex offense and the student has committed a violation of the school's rules or policies with respect to the allegation made against him or her. (§99.31(a)(14))
- To parents of a student regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the school, governing the use or possession of alcohol or a controlled substance if the school determines the student committed a disciplinary violation and the student is under the age of 21. (§99.31(a)(15))

## Workplace Violence Policy

### PURPOSE

Clinton Community College's highest priority is the safety and security of its employees, students, visitors, contractors, and members of the neighboring community. To proactively address the potential for workplace violence, the College developed a Workplace Violence Prevention Program (WVPP) and adopted a "zero tolerance" policy towards any act of, or threats of, workplace violence.

### POLICY

It is Clinton Community College's policy that any person who makes threats, exhibits threatening behavior, or engages in violent acts on the College's property will be removed from the premises as quickly as possible and shall remain off the premises at the discretion of the College President. The College has designated a Workplace Violence Prevention Program Work Group whose responsibility is to identify risk factors and the methods the College will use to prevent workplace violence.

### SCOPE

Any employee of the College found to be in violation of this policy will receive appropriate disciplinary action up to and including termination. Any disciplinary action will be in accordance with applicable laws, rules, regulations, and collective bargaining agreements. Any contracted employee found to be in violation of this policy may result in suspension and/or termination of any business relationship (including existing contracts) and criminal prosecution of those involved.

### APPLICATION OF POLICY

1. Violations of this policy will be treated seriously by the College. Reports of such acts will be promptly investigated and action will be taken, as necessary, to appropriately address each incident. The College will seek disciplinary penalties, up to and including termination, against employees of the College who are involved in the commission of threatening behavior, violence, and/or harassment.

2. The College is committed to quickly dealing with threatening behavior and violence. Managers and supervisors are specifically empowered by this policy to take immediate action to resolve or stabilize violent situations on campus and to protect people from harm. They will ensure that, when a threat is made or a violent incident occurs, appropriate personnel are immediately notified.
3. The College is further committed to supporting the continuation of a good working relationship with local law enforcement, employing legal remedies that address issues of workplace violence (e.g., restraining orders), and creating and maintaining the highest practical level of physical security on campus.
4. The College may support criminal prosecution of those who threaten or commit violence or engage in harassment against its employees, students, and visitors to its campus.

## **EMPLOYEE OBLIGATIONS**

All potentially dangerous situations must be reported immediately. If an employee, student, or visitor believes he/she or others are in immediate danger, he/she should dial "911," then contact Security immediately at (518) 593-0777 (off-campus) or Ext. 777 (on-campus) and Switchboard at Ext. 299 (on campus).

Reports of violence, threatening behavior or harassment should be made to any of the following persons/organizations:

- Immediate supervisor
- Senior Staff Member (President and/or Vice Presidents)
- Human Resources
- Security

Each person to whom such a report is made shall immediately refer the report to the Office of Human Resources.