

## **POLICY AND PROCEDURES ON SEXUAL HARASSMENT**

### **I. Sexual Harassment-General Statement**

#### **A. Policy**

In keeping with its historic commitment to social justice and the basic dignity of all persons, John Carroll University condemns and will not tolerate sexual harassment on campus or at off-campus programs, activities, and events. Sexual harassment violates basic human dignity and impedes the fundamental mission of the university. A cooperative working relationship, one that promotes mutual respect, should be fostered among faculty, administration and staff. An atmosphere of trust between faculty and students should be preserved. There must also be a spirit of respect and trust within the student community.

#### **B. Definition**

Sexual harassment means any unwelcome sexual advances, requests for sexual favors, offensive references to gender or sexual orientation or other conduct of a sexual nature when:

- Toleration of such conduct is made either explicitly or implicitly a term or condition of an individual's employment, professional or student status; or
- Toleration of or rejection of such conduct is used as the basis for employment or academic decisions; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or educational experience, or creates an intimidating, hostile, or offensive work or educational environment.
- Sexual harassment can be verbal, written, physical or pictorial in nature.

#### **C. Applicability**

This policy applies to all students, staff, administrators, faculty members, vendors, contractors and guests, whether on campus or at off-campus programs, activities, or events. Current students, staff, administrators, or faculty members who believe that they have been sexually harassed by another member of the university community or by a third party, vendor, or guest should use the following processes to seek resolution of concerns.

#### **D. Confidentiality**

To the extent possible, the university will maintain the confidentiality of all parties involved in a sexual harassment complaint. Confidentiality, however, cannot be guaranteed.

#### **E. Consequences**

Any member of the university community found responsible for sexual harassment in violation of this policy will be subject to disciplinary action, up to and including termination of employment and/or expulsion. False or mischievous reports of sexual harassment will be subject to review and appropriate action will be taken.

Interference with or retaliation against persons reporting sexual harassment or participating in a process under this policy is itself a violation and will be grounds for disciplinary action.

#### **F. Internal Record Keeping**

To ensure that the university may appropriately consider the implications of multiple complaints against a single individual or group, the Academic Vice President will be advised of every sexual harassment complaint as brought, whether informal or formal resolution is sought. If the complaint is resolved informally, the person receiving the complaint will also submit to the Academic Vice President a brief description of how the complaint was resolved.

#### **G. Sexual Harassment Board**

A Sexual Harassment Board ("SHB") consisting of the persons designated as available for assisted resolution will be responsible for investigating all formal complaints of sexual harassment. The President of the university will appoint or reappoint a chair from the SHB to receive all formal complaints. Upon receipt of a formal complaint, the chair will designate an SHB hearing panel consisting of three persons and set up any necessary meetings of the panel. Any member of the SHB who participated in informal attempts to resolve a particular complaint may not serve on the hearing panel for that formal complaint.

### **II. Sexual Harassment Procedure**

The university has established both informal and formal internal administrative procedures for handling claims of sexual harassment. These procedures allow students, staff, and faculty to report instances of sexual harassment in a non-intimidating manner and provide for prompt and equitable resolution of complaints. All reports of sexual harassment will receive prompt attention and appropriate action will be taken to resolve the matters in a proper and timely fashion. As to those forms of sexual harassment that also violate state or federal law, persons claiming sexual harassment may also file a complaint with the appropriate local, state or federal agency or in a court with jurisdiction.

#### **A. Informal Process**

In many instances, informal communication or discussion, counseling and mediation can be useful in resolving perceived instances of sexual harassment. Members of the university community who want to resolve their concerns informally may do so directly with the persons involved or may ask for

the assistance of designated university personnel generally, informal complaint resolution does not involve disciplinary proceedings against the alleged harasser. Use of these informal procedures is not a prerequisite to initiating a formal complaint.

### **1. Direct Resolution**

Recommendations for directly communicating the unwelcome nature of behavior perceived as sexually harassing may be found in the offices of Student Affairs, Counseling Center, and Human Resources.

### **2. Assisted Resolution**

Designated university personnel have been trained and are appointed by the President to provide prompt assistance to members of the university community who believe they have been sexually harassed. Although not limited to the following, such assistance may involve advising the person(s) claiming harassment in preparation for a conversation with the alleged harasser or assisting the person(s) in writing a letter asking that the behavior stop. Alternatively, the person(s) claiming harassment may ask the designated officials to meet with the alleged harasser, or explore other possible resolutions, including mediation between the parties. The designated official may seek the assistance of other university personnel, such as department chairs, deans, or administrators in resolving an informal complaint.

## **B. Formal Process**

Although use of the informal process is not required, the formal process is ordinarily used if informal resolution is **not** agreed upon or fails to resolve a concern satisfactorily, or if the charges are so serious as to warrant an immediate formal complaint. The university will proceed promptly according to the timetables below, recognizing that unforeseen circumstances may make strict adherence to these time lines impossible.

### **1. Initiation of Formal Complaint**

Members of the University community may bring a formal claim of sexual harassment by filing a written complaint directly with the chair of the university's Sexual Harassment Board. The name of the current chair and instructions for filing a formal complaint can be found at the end of this policy.

### **2. Notification to the Accused**

Ordinarily, within five (5) days of receiving the complaint, the chair of the Sexual Harassment Board will notify the accused in writing of the formal complaint, including in that notification a copy of the written complaint as filed. The accused person will be asked to respond to the complaint in writing by a specified date.

### 3. Investigation

The Sexual Harassment Board is responsible for conducting a prompt investigation of a formal complaint. The investigation will entail interviews with the person(s) filing the complaint, the accused and other persons believed to have pertinent factual knowledge. During such investigations, every reasonable effort will be made to protect the privacy rights of all parties, but confidentiality cannot be guaranteed. All parties and potential witnesses will be reminded of the need for confidentiality during the investigation. Other university officials may be consulted on an as-needed basis.

### 4. Hearing

The investigation will include a private hearing at which the person(s) bringing the complaint and the accused will be given an opportunity to be heard and to present any additional relevant information that would be helpful to the SHB's determination. At this hearing, both parties may have an advisor present. The advisor may not participate in the hearing. Upon request by the SHB, and in any event when a party's advisor is an attorney, the university's legal counsel will attend any portion of the proceeding for purposes of consulting with and advising the hearing board. The SHB will designate a note taker who will be responsible for providing minutes of the hearing. No audio or video recordings may be made.

### 5. Decision

Decisions available to the SHB will be:

- a. **Unfounded:** The SHB will issue an "unfounded" decision if it cannot be determined that sexual harassment occurred and/or that the accused was responsible for the sexual harassment. Unless the person bringing the complaint appeals, this decision will ordinarily resolve the matter.
- b. **Founded:** The SHB will issue a "founded" decision if the board is convinced, in light of all the information available, that it is more likely than not that sexual harassment occurred and that the accused was responsible for the sexual harassment. Should the SHB make this decision, the matter will be referred to the appropriate vice president for disciplinary action.
- c. **Negotiated Resolution:** The filing of a formal complaint may result in an opportunity to negotiate a resolution of the matter between the parties. A negotiated resolution may not necessarily mean an official determination by the SHB that the complaint was founded or unfounded or that the accused admitted guilt. While a negotiated resolution will end the formal complaint as brought, it will be sent to the appropriate vice president for review.

## 6. Report of Decision

Within five working days of the completion of the investigation, including the private hearing, the SHB will issue a written report and recommendations for sanctions, if any, including in the report the rationale for the decision. The report will be sent to the parties and to the appropriate vice president for any necessary action.

## 7. Appeal of Decision

Decisions to impose sanctions against any member of the university community found responsible for sexual harassment may be appealed through applicable grievance or appeal procedures as found in the faculty, staff, or student handbooks.

A person whose complaint is determined to be unfounded may ask the appropriate vice president to review the SHB's decision and recommend reconsideration. The vice president may decide to accept the decision of the SHB or may recommend that the SHB reconsider the decision. The vice president's decision to accept the recommendation or the SHB's decision upon reconsideration will be final.

### Sexual Harassment Board:

The following members of the university community have been designated to assist in the informal resolution of sexual harassment concerns and to serve on hearing boards formally investigating when necessary:

Mary Beth Javorek – Co-Chair (Counseling)	<a href="mailto:mjavorek@jcu.edu">mailto:mjavorek@jcu.edu</a>	Ext. 4943	(term expires Aug. 2012)
Nathan Hartman-Co-Chair (MML)	<a href="mailto:nhartman@jcu.edu">nhartman@jcu.edu</a>	Ext. 4424	(term expires Aug. 2012)
Richard Flagg (Maintenance)	<a href="mailto:rflagg@jcu.edu">rflagg@jcu.edu</a>	Ext. 4407	(term expires Aug. 2012)
Beth Martin - Chair (Psychology)	<a href="mailto:martin@jcu.edu">martin@jcu.edu</a>	Ext. 4287	(term expires Aug. 2012)
Matthew Verleny (Business Office)	<a href="mailto:mverleny@jcu.edu">mverleny@jcu.edu</a>	Ext. 4506	(term expires Aug. 2012)
Carl Anthony (Biology)	<a href="mailto:canthony@jcu.edu">canthony@jcu.edu</a>	Ext. 4489	(term expires Aug. 2013)
Ruth Connell (Library)	<a href="mailto:connell@jcu.edu">connell@jcu.edu</a>	Ext. 1635	(term expires Aug. 2013)
Barbara Kingsbury (Student Affairs)	<a href="mailto:bkingbury@jcu.edu">bkingbury@jcu.edu</a>	Ext. 4213	(term expires Aug. 2013)
Frank Navratil (Economics and Finance)	<a href="mailto:navratil@jcu.edu">navratil@jcu.edu</a>	Ext. 4521	(term expires Aug. 2013)

Four additional persons are in the process of being appointed for the term September, 2011 through August, 2014.

A harassment complaint form can be found at:

[http://webmedia.jcu.edu/hr/files/2011/02/Harassment\\_Form.pdf](http://webmedia.jcu.edu/hr/files/2011/02/Harassment_Form.pdf)

Please refer anyone expressing concerns about possible sexual harassment to any of the above faculty members or administrators.

**Updated 1/2008, 11/2010**