INTERIM SEXUAL MISCONDUCT POLICY

AUGUST 2014

UPDATED AUGUST 2015

TRIGGER WARNING: This interim policy addresses the reporting of sexual assault and may contain content or subject matter that is sensitive or upsetting.

Resources are available on- and off-campus to provide assistance.
# TABLE OF CONTENTS

I. Institutional Values and Community Expectations ......................................................... 3

II. Scope of Policy—To Whom and When This Policy Applies; Related Definitions ............ 5

III. Notice of Non-Discrimination—The Colleges Prohibit Discrimination; The Title IX Coordinator Oversees the Colleges’ Response To Sexual Misconduct................................. 6

   A. Title IX Coordinator ................................................................................................. 7

   B. External Reports........................................................................................................ 9

IV. Privacy and Confidentiality ........................................................................................... 10

   A. Understanding the Colleges’ Commitment to Privacy and Confidentiality and the Limits of Confidentiality................................................................. 10

   B. Limitations on Confidentiality.................................................................................. 11

      1. Responsible Employees ....................................................................................... 11

      2. Weighing a Request for Confidentiality ............................................................... 12

   C. Timely Warnings ..................................................................................................... 13

   D. Compliance with all Applicable Laws Related to Privacy and Confidentiality ....... 14

V. Prohibited Conduct ......................................................................................................... 14

   A. Sexual Harassment .................................................................................................. 14

   B. Sexual Assault......................................................................................................... 17

   C. Sexual Exploitation ................................................................................................. 17

   D. Intimate Partner/Dating/Domestic/Relationship Violence ...................................... 18

   E. Stalking ..................................................................................................................... 18

   F. Physical Assault ....................................................................................................... 19

   G. Harm to Others ....................................................................................................... 19

   H. Bullying and Intimidation ....................................................................................... 20

   I. Indecent Exposure .................................................................................................... 20

   J. Retaliation ................................................................................................................ 20

VI. Related Definitions: Consent, Force, Coercion, Incapacitation, and Alcohol and Other Drugs ................................................................................................. 21

   A. Consent ................................................................................................................... 21

      1. Consensual Sexual Activity between Employees and Students ......................... 22

   B. Force ....................................................................................................................... 22

   C. Coercion ................................................................................................................ 22

   D. Incapacitation ........................................................................................................ 23

   E. Alcohol and Other Drugs ...................................................................................... 23
VII. Resources & First Response Support Options ................................................................. 24
   A. Overview ..................................................................................................................... 24
   B. Emergency Support Services in the Event of a Sexual Assault ...................................... 24
      1. Campus Safety and Law Enforcement ...................................................................... 24
      2. Emergency Health Care .......................................................................................... 25
      3. Emergency Mental Health Support ......................................................................... 27
   C. Confidential Resources and Support .......................................................................... 27
      1. On-Campus Privileged and Confidential Communications ....................................... 28
         a. Professional Counselors ..................................................................................... 28
         b. Pastoral Counselors ............................................................................................ 28
         c. Health Services .................................................................................................... 29
         d. Staff in the Offices of CCSW, Hubbs Health Center, and the Office of Religious Life ................................................................. 29
      2. Off-Campus Confidential Reporting ....................................................................... 29
         a. Counselors and Advocates .................................................................................. 29
         b. Health Care .......................................................................................................... 30
      3. Limitations Associated with Confidential Reporting .................................................. 30
   D. Education and Prevention Programs ......................................................................... 31

VIII. Reporting .................................................................................................................... 31
   A. Overview ..................................................................................................................... 32
   B. Reporting to Law Enforcement ................................................................................... 33
      1. Victim Assistance Programs .................................................................................... 34
      2. Simultaneous Investigations of the Colleges and GPD ............................................. 34
   C. Campus Reporting Options ....................................................................................... 35
   D. Anonymous Reporting ............................................................................................... 35
   E. Reporting Considerations ............................................................................................ 36
      1. Timeliness of Report, Location of Incident ............................................................... 36
      2. Amnesty for Personal Use of Alcohol or Other Drugs ............................................. 36
   F. Statement Against Retaliation ..................................................................................... 36
   G. False Reporting .......................................................................................................... 36
   H. Reports Involving Minors ........................................................................................... 37

IX. Interim Measures and Accommodations that can be Implemented Pending Outcome of Sexual Misconduct Complaints ................................................................. 37
   A. Overview ..................................................................................................................... 37
B. Range of Measures .................................................................................................................. 37
C. Colleges’ Imposed Interim Suspension or Leave ................................................................. 38
X. Summary of Title IX Review, Investigation, and Resolution Alternatives ...................... 39
   A. Overview of Procedural Options ......................................................................................... 39
   B. Role of the Title IX Coordinator ..................................................................................... 40
   C. Time Frames for Addressing Reports Made Under this Policy ..................................... 40
   D. Initial Title IX Review and Assessment .......................................................................... 41
      1. Risk of Harm .................................................................................................................. 41
      2. Appropriateness of Disciplinary Action or Hearing Process ....................................... 41
   E. Investigation ....................................................................................................................... 41
   F. Remedies-based Resolution ............................................................................................... 42
   G. Complaint Resolution Process ........................................................................................ 43
XI. Procedures for Resolution of Complaints Against Students ............................................ 44
   A. Title IX Assessment ........................................................................................................... 44
   B. Remedies-based Responses ............................................................................................... 46
   C. Investigation ...................................................................................................................... 47
   D. Determination of Next Steps Following an Investigation ............................................. 47
XII. The Complaint Resolution Process .................................................................................. 48
   A. Administrative Hearing ..................................................................................................... 48
   B. Sexual Misconduct Hearing Panel .................................................................................... 48
      1. Process Support for the Hearing Panel ......................................................................... 49
      2. Process Support for the Parties ...................................................................................... 49
   C. External Decision-Maker .................................................................................................. 49
   D. Pre-Hearing Resolution Procedures ................................................................................ 50
      1. Initiation of Charges ......................................................................................................... 50
      2. Group Infractions .......................................................................................................... 50
      3. Advisers .......................................................................................................................... 50
      4. Pre-Hearing Meeting with Complainant and Respondent; Witnesses ..................... 51
      5. Notice of Hearing ........................................................................................................... 51
      6. Composition of the Hearing Panel; Challenges to the Composition ....................... 51
      7. Pre-Hearing Review of Documents ............................................................................. 51
      8. Witnesses ....................................................................................................................... 52
      9. Relevance ....................................................................................................................... 52
10. Prior Sexual History and/or Pattern Evidence ........................................ 52
11. Request to Reschedule Hearing .............................................................. 54
12. Consolidation of Hearings ......................................................................... 54

E. Hearing Procedures (for Hearing Panel or External Decision-Maker) .................. 54
   1. Attendance at Hearing ............................................................................ 54
   2. Participants in Hearing Procedures ......................................................... 54
   3. Safeguarding of Privacy .......................................................................... 55
   4. Hearing Procedures ................................................................................. 55
   5. Questioning of Witnesses ....................................................................... 56
   6. Deliberation ............................................................................................. 56
   7. Preponderance of the Evidence Standard .............................................. 56
   8. Sanctions .................................................................................................. 57
   9. Notice of Outcome ................................................................................... 58
  10. Recording of Proceedings ......................................................................... 59
  11. Withdrawal Pending Outcome ................................................................. 59

F. Appeals ....................................................................................................... 59

G. Records ....................................................................................................... 60

Sources ............................................................................................................ 61

Appendix A New York Crime Definitions Required to be distributed by The Violence Against
Women Act (VAWA) ...................................................................................... 2

Appendix B Mandatory Child Abuse Reporting ............................................... 8
**INTERIM SEXUAL MISCONDUCT POLICY**
**HOBART AND WILLIAM SMITH COLLEGES**
**AUGUST 2014**

**SUMMARY**

This Interim Sexual Misconduct Policy has been developed to:

1. reaffirm the Colleges’ institutional values;
2. define community expectations;
3. provide recourse for those individuals whose rights have been violated; and
4. provide for fair and equitable procedures for determining when this Policy has been violated.

This Interim Sexual Misconduct Policy:

1. Prohibits sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, and sex- or gender-based harassment that does not involve conduct of a sexual nature (Sections III and V);
2. Defines consent, force, coercion, and incapacitation (Section IV);
3. Describes the difference between privacy and confidentiality so students understand where to go if they want to speak with someone confidentially or want to make a report that will be acted upon (Sections IV, VII, and VIII);
4. Describes the supports, resources, and accommodations available to students, on-campus and off-campus (Sections VII and IX);
5. Describes the process for reporting such incidents, on-campus and off-campus (Section VIII); and
6. Describes the options to address the conduct through on-campus proceedings (Sections X, XI, and XII).

If you share information related to sexual violence, sexual assault, sex discrimination, or sexual harassment with a faculty member, coach, administrator, Resident Assistant, or member of student Orientation staff, it must be shared with the Title IX Coordinator. If you want a confidential discussion, please speak with one of the confidential sources listed in Sections IV(A) and VII(C). There are a number of confidential and non-confidential resources on campus who can provide information to students about their reporting options and can describe the different on-campus and off-campus
supports available to students. Off-campus resources are not obligated to inform the Colleges of the report.

Sexual harassment, sexual misconduct, sexual violence, and intimate partner violence are broad terms designed to capture a spectrum of behavior. In general, sexual violence refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to incapacitation. Sexual misconduct is a broad term that refers to all of the prohibited behaviors under this Policy.

To make reporting easy and accessible, the Colleges provide a variety of means to report sexual misconduct. All Colleges’ community members, even those who are not required to make a report under this Interim Sexual Misconduct Policy, are strongly encouraged to report information regarding any incident of sexual assault or harassment to the Title IX Coordinator. The Title IX Coordinator is specifically charged with coordinating the initial assessment, initiating the investigation, and responding to allegations of sexual assault or harassment to stop the harassing conduct, address its effects, and prevent its recurrence.

The Colleges’ policy, definitions, and standard of review differ from New York criminal law. A Complainant may seek resolution through the Colleges’ complaint process, may pursue criminal action, may choose one but not the other, may choose both, or may choose neither. Neither law enforcement’s determination whether or not to prosecute a Respondent nor the outcome of any criminal prosecution are determinative of whether sexual assault or harassment has occurred under this Policy. Proceedings under the Colleges’ Interim Sexual Misconduct Policy may be carried out prior to, simultaneously with, or following off-campus civil or criminal proceedings.

**WHAT IS TITLE IX?**

Title IX, a federal law, mandates that colleges and universities create an environment free from sexual discrimination and harassment for all community members and prohibits discrimination on the basis of sex in education programs and activities. Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §1681, et seq. All public and private elementary and secondary schools, school districts, colleges, and universities receiving any federal funds must comply with Title IX. Under Title IX, discrimination on the basis of sex includes sexual harassment, gender-based harassment, sexual violence, sexual assault, other forms of sexual misconduct, stalking, and intimate partner violence.

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.
Title IX. Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and other applicable statutes.

**What does the Colleges’ Title IX Coordinator do?**

Title IX, a federal law, mandates that colleges and universities create an environment free from sex discrimination and sexual harassment for all community members and prohibits discrimination on the basis of sex in education programs and activities. **Sexual violence is considered a form of sex discrimination.** Title IX requires most colleges and universities to appoint someone to the position of Title IX Coordinator. The Colleges’ Title IX Coordinator can provide community members with information about the Colleges’ Interim Sexual Misconduct Policy and supports, resources, and options available to students, both on-campus and off-campus. In addition, the Title IX Coordinator tracks and monitors incidents of sexual violence, sexual assault, sex discrimination, sexual/sex harassment, stalking, and intimate partner violence and ensures that the Colleges respond effectively to each complaint, which may include conducting investigations. The Title IX Coordinator also oversees the Colleges’ training, prevention, and education efforts.

### I. Institutional Values and Community Expectations

<table>
<thead>
<tr>
<th>This Interim Sexual Misconduct Policy applies to and prohibits all forms of sexual, sex- or gender-based harassment, discrimination or misconduct—based upon gender, gender identity, gender expression, or sexual orientation—including sexual harassment, sexual violence, intimate partner violence, and stalking, and sex- or gender-based harassment that does not involve conduct of a sexual nature. Misconduct of this nature is contrary to the Colleges’ institutional values and is prohibited by state and federal law.</th>
</tr>
</thead>
</table>

Hobart and William Smith Colleges are committed to fostering a non-discriminatory and harassment-free educational, living, and working environment for all members of the HWS community, including students, faculty, staff, volunteers, and visitors, through:

- clear and effective policies;
- a coordinated education and prevention program; and
- prompt and equitable procedures for resolution of complaints.

---

1 Colleges that do not receive federal financial assistance are not obligated to appoint a Title IX Coordinator.

2 According to the Human Rights Campaign (hrc.org) and the Transgender Law Center, sexual orientation is the preferred term used when referring to an individual's physical and/or emotional attraction to the same and/or opposite gender. “Gay,” “lesbian,” “bisexual” and “straight” are all examples of sexual orientations. A person’s sexual orientation is distinct from a person’s gender identity and expression. Gender identity (distinct from the term “sexual orientation”) refers to a person's innate, deeply felt psychological identification as a man, woman or some other gender, which may or may not correspond to the sex assigned to them at birth (e.g., the sex listed on their birth certificate). Gender expression refers to the external manifestation of a person’s gender identity (such as appearance, dress, mannerisms, speech patterns, and social interactions), which may or may not conform to socially-defined behaviors and characteristics typically associated with being either masculine or feminine. http://www.hrc.org/resources/entry/sexual-orientation-and-gender-identity-terminology-and-definitions; http://transgenderlawcenter.org/issues/employment/tips-for-working-with-transgender-coworkers
Because the Colleges’ ability to act is limited unless a report is made, all HWS community members are strongly encouraged to report information regarding any incident of sexual or gender-based misconduct directly to the Title IX Coordinator. HWS also encourages the prompt reporting of any incident of sexual or gender-based misconduct to local law enforcement or civil rights enforcement agencies.

Upon receipt of a report, the Colleges will take prompt and effective action by: providing interim measures and support for individuals who make a report or seek assistance under this Policy (referred to as a “Complainant,” even if the individual does not decide to proceed with the complaint resolution process); conducting a review of the conduct under Title IX; addressing the safety of individuals and the campus community; and as warranted or pursued by the Complainant, pursuing resolution through informal measures or formal disciplinary action against the accused individual (referred to in this Policy as a “Respondent”). The Policy provides specific procedures for investigation and resolution based on the role of Respondent (student, staff, or faculty).

In all instances, the Colleges, not the Complainant, will bear the responsibility for investigating and taking appropriate action.

The Colleges require all members of the HWS community to conduct themselves in a manner that does not infringe upon the rights of others. The Colleges will not tolerate sex discrimination or harassment, sexual harassment, sexual violence, stalking, intimate partner violence, or sex- or gender-based harassment that does not involve conduct of a sexual nature. Any individual who is found to have violated this Interim Sexual Misconduct Policy will face disciplinary sanctions, up to and including expulsion or termination of employment, as later described in this Policy.

Retaliation against any person or group who makes a complaint, cooperates with an investigation, or participates in a grievance procedure is a violation of HWS policy. Retaliation should be reported promptly to the Title IX Coordinator or a member of the Title IX Team. The report of retaliation will be investigated and may result in disciplinary action independent of any sanction or interim measures imposed in response to the underlying allegations of discrimination and/or harassment.

The Colleges encourage all members of our community to participate in the process of creating a safe, welcoming, and respectful environment on campus. In particular, the Colleges expect that all HWS community members will take reasonable and prudent actions to prevent or stop an act of sexual misconduct to which an individual is a bystander. Taking action may include direct intervention when safe to do so, enlisting the assistance of friends, contacting law enforcement or seeking assistance from a person in authority. Community members who choose to exercise this positive moral obligation will be supported by the Colleges. The Colleges will respond to and address all reports of retaliation against a bystander who intervenes to stop an act of sexual misconduct, and will treat such retaliation as a violation of this Interim Sexual Misconduct Policy.
The Colleges’ response will be overseen by the full-time Title IX Coordinator Susan Lee, who is available by telephone at 315.781.3922 or email at slee@hws.edu. You can visit Ms. Lee in person in the Office of Title IX Programs & Compliance located on campus in the lower level of the Seneca Room Annex (lake level), 603 S. Main Street, Geneva, NY 14456.

The Colleges’ Title IX Team will review this Policy on an annual basis in order to improve resources, supports, and responses and to capture evolving legal requirements. The Title IX Team’s annual review will consider each year’s experience, campus climate surveys, and the input of community focus groups.

II. SCOPE OF POLICY—TO WHOM AND WHEN THIS POLICY APPLIES; RELATED DEFINITIONS

This Policy applies to all HWS community members, including students, faculty, administrators, staff, volunteers, vendors, independent contractors, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the Colleges or on Colleges’ property.

This Policy is intended to protect and guide all individuals covered by this Policy who have been affected by sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, and sex- or gender-based harassment that does not involve conduct of a sexual nature, whether as a Complainant, a Respondent, or a third party, and to provide fair and equitable procedures for investigation and resolution of reports.

Definitions: When used in this Policy, **Complainant** refers to the individual who identifies as being a victim or survivor of sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, sex- or gender-based harassment that does not involve conduct of a sexual nature, whether or not the individual decides to proceed with the complaint resolution process. **A Respondent** refers to the individual who has been accused of prohibited conduct under this Policy. **A Complainant and Respondent are referred to collectively as the parties.** A **perpetrator** is someone who is alleged to have engaged in conduct in violation of this Interim Sexual Misconduct Policy but is not yet considered a Respondent because applicable processes under this Policy have not yet been commenced. (“Perpetrator” is the word used by the White House Task Force in its report: Not Alone: The First Report of the White House Task Force to Protect Students From Sexual Assault April 2014 [http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf]). A **third party** refers to any other participant in the process, including a witness to the incident or an individual who makes a report on behalf of someone else. After receiving a report from a third party, if individual who was the target of the incident does not proceed with a complaint, the Colleges may nevertheless be obligated to proceed with an investigation.

This Policy refers to both reports and complaints. **Report** is used to indicate the process of giving a spoken or written account of conduct prohibited by this Policy either witnessed or experienced (e.g., “a student reported or made a report to a faculty member that a sexual assault occurred at an off-campus party Friday night.” **Complaint** is used to indicate a formal allegation made against a party under this Policy.
All HWS community members are required to follow Colleges’ policies and local, state, and federal law. This Policy applies to:

- conduct occurring on HWS property;
- conduct occurring off HWS property but involving two or more HWS students;
- conduct occurring at HWS-sanctioned events; and
- HWS programs that take place off-campus including
  o overseas study abroad programs and
  o internship programs.

In addition, off-campus conduct that is likely to have a substantial adverse effect on, or poses a threat of danger to, any member of the HWS community or the Colleges is covered under this Policy, including activities that take place at houses of fraternities recognized by the school; study abroad and internship programs; events for school clubs that occur off campus; or conduct that has continuing effects on campus or in an off-campus education program or activity.

Even if the perpetrator is not a member of the Colleges’ community or when the Colleges do not otherwise have jurisdiction over the Respondent, the Colleges will still take prompt action to provide for the safety and well-being of the Complainant and the broader campus community.

There are specific procedures for resolving a report under this Policy against a student, staff or instructional-staff respondent:

- Complaints against a student will be addressed under the procedures for resolution of complaints against students, which is set forth in the Procedures for Resolution of Complaints Against Students section of this Policy.
- Complaints against a staff member will be addressed under the Colleges’ Harassment and Non-discrimination Policy set forth in the Employee Handbook.
- Complaints against a member of the faculty will be addressed under the Colleges’ policy governing instructional staff and related grievance procedures, which can be found in the Faculty Handbook.

III. NOTICE OF NON-DISCRIMINATION—THE COLLEGES PROHIBIT DISCRIMINATION; THE TITLE IX COORDINATOR OVERSEES THE COLLEGES’ RESPONSE TO SEXUAL MISCONDUCT

Hobart and William Smith Colleges are committed to providing a non-discriminatory and harassment-free educational, living, and working environment for all members of the HWS community, including students, faculty, staff, volunteers, and visitors. HWS prohibits discrimination and harassment in their programs and activities on the basis of age, color, disability, domestic violence victim status, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, veteran status, or any other status protected under the law.
This Interim Sexual Misconduct Policy prohibits and addresses sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, and sex- or gender-based harassment that does not involve conduct of a sexual nature against HWS community members of any sex, gender, gender identity, gender expression, or sexual orientation.

The Colleges, as an educational community, will respond promptly and equitably to reports of sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence or sex- or gender-based harassment that does not involve conduct of a sexual nature in order to eliminate the harassment, prevent its recurrence, and address its effects on any individual or the community.

A. Title IX Coordinator

The Colleges have designated Susan Lee to serve as the Colleges’ full-time Title IX Coordinator. The Title IX Coordinator oversees the Colleges’ centralized review, investigation, and resolution of reports of sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, and sex- or gender-based harassment that does not involve conduct of a sexual nature. The Coordinator also oversees the Colleges’ overall compliance with Title IX.

The Title IX Coordinator is:

• knowledgeable and trained in Colleges’ policies and procedures and relevant state and federal laws;
• trained in sexual assault response;
• available to provide information to any individual, including a Complainant, a Respondent or a third party, about the courses of action available at the Colleges, both informally and formally, and in the community;
• available to provide private (but not confidential) assistance to any Colleges’ employee regarding how to respond appropriately to a report of conduct covered by this Interim Sexual Misconduct Policy;
• responsible for monitoring full compliance with all procedural requirements and time frames outlined in this Policy; and
• responsible for overseeing the training, prevention, and education efforts and periodic reviews of climate and culture.

The Title IX Coordinator works with a Title IX Team. The Title IX Team has a shared responsibility for supporting, monitoring, and advising regarding the Colleges’ Title IX obligations and resources. Any member of the Title IX Team is accessible to any member of the community for consultation and guidance.

Members of the Title IX Team include the Title IX Coordinator, Special Counsel to the President, Associate Vice President for Student Affairs, a counselor on staff at the Center for
Counseling and Student Wellness (CCSW) with expertise in sexual assault response and prevention education (who is not serving as counselor for any involved students), and a faculty member elected to this role. In addition, as determined by the Title IX Coordinator, the Team may include the Director of Campus Safety, the Provost and Dean of Faculty, the Vice President for Student Affairs, and the Vice President for Human Resources, as necessary. Additional members may be added to the Title IX Team as deemed necessary by the Colleges to ensure proper review and response to reports of sexual misconduct. In each case, composition of the Team will be limited to a small group of individuals who “need to know” in order to implement procedures under this Policy. The individuals who “need to know” are those who must provide support and resources for the parties and participate in timely resolution of the complaint.

Inquiries or complaints concerning Title IX may be directed to any member of the Title IX Team.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Office Location</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Susan Lee</td>
<td>Title IX Coordinator, Office of Title IX Programs and Compliance</td>
<td>Seneca Room (Lake level), 603 S. Main Street, Geneva, NY 14456</td>
<td>3922</td>
<td><a href="mailto:slee@hws.edu">slee@hws.edu</a></td>
</tr>
<tr>
<td>Stacey Pierce,</td>
<td>Associate Dean of Students</td>
<td></td>
<td>3900</td>
<td><a href="mailto:pierces@hws.edu">pierces@hws.edu</a></td>
</tr>
<tr>
<td>Elizabeth Carroll</td>
<td>Psychologist, Center for Counseling and Student Wellness</td>
<td>Center for Counseling and Student Wellness (“CCSW), 91 St. Clair Street, Geneva, NY 14456</td>
<td>3388</td>
<td><a href="mailto:ecarroll@hws.edu">ecarroll@hws.edu</a></td>
</tr>
<tr>
<td>Marty Corbett</td>
<td>Director, Campus Safety</td>
<td>Maintenance Building/ Campus Safety Building</td>
<td>3656</td>
<td><a href="mailto:corbett@hws.edu">corbett@hws.edu</a></td>
</tr>
<tr>
<td>Titi Ufomata</td>
<td>Provost/Dean of Faculty</td>
<td>Coxe Hall</td>
<td>3304</td>
<td><a href="mailto:ufomata@hws.edu">ufomata@hws.edu</a></td>
</tr>
<tr>
<td>Robb Flowers</td>
<td>Vice President for Student Affairs</td>
<td>Smith Hall, Room 108</td>
<td>3900</td>
<td><a href="mailto:flowers@hws.edu">flowers@hws.edu</a></td>
</tr>
<tr>
<td>Sandy Bissell</td>
<td>Vice President for Human Resources</td>
<td>Coxe Hall/Human Resources</td>
<td>3312</td>
<td><a href="mailto:bissell@hws.edu">bissell@hws.edu</a></td>
</tr>
<tr>
<td>Faculty Member TBD</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
B. **External Reports**

Inquiries or complaints concerning Title IX may also be directed to the U.S. Department of Education’s Office for Civil Rights.

U. S. Department of Education, Office for Civil Rights  
New York Office  
32 Old Slip, 26th Floor  
New York, New York 10005-2500  
Phone: 646.428.3800  
Fax: 646.428.3843  
Email: OCR.NewYork@ed.gov

OCR National Headquarters  
U. S. Department of Education  
Office of Civil Rights, Customer Service Team  
Mary E. Switzer Building  
330 C. Street, S.W.  
Washington, D.C.  20202  
Tel: 800.421.3481  
Fax: 202.205.9862

Inquiries involving employees may also be referred to:

New York State Division of Human Rights  
One Monroe Square  
259 Monroe Avenue, Suite 308  
Rochester, New York 14607  
Phone: 585.238.8250  
Email: InfoRochester@dhr.ny.gov

New York State Division of Human Rights  
Office of Sexual Harassment  
55 Hanson Place, Suite 347  
Brooklyn, New York 11217  
Phone: 718.722.2060 or 1.800.427.2773  
Fax: 718.722.4525

U.S. Equal Employment Opportunity Commission  
National Headquarters  
131 Main Street NE Fourth Floor Suite 4NW02F  
Washington, D.C.  20507  
Phone: 202.663.4900  
Fax: 202.663.4912

U.S. Equal Employment Opportunity Commission  
New York District Office
IV. PRIVACY AND CONFIDENTIALITY

A. Understanding the Colleges’ Commitment to Privacy and Confidentiality and the Limits of Confidentiality

Not all employees can promise confidentiality when they receive information related to misconduct covered by this Policy. Please read this section carefully to understand these limits as privacy and confidentiality have distinct meanings under this Interim Sexual Misconduct Policy.

The Colleges are committed to protecting the privacy of all individuals involved in a report of sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, and sex- or gender-based harassment that does not involve conduct of a sexual nature. All Colleges’ employees who are involved in the Colleges’ Title IX response—including the Title IX Coordinator, investigators, and hearing panel members—receive specific instruction about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report.

Privacy: Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those Colleges employees who “need to know” in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

Confidentiality: Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. These campus and community professionals include mental health providers, ordained clergy, rape crisis counselors, health care providers, and attorneys, all of whom have legally protected confidentiality. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others.
An individual who seeks completely confidential assistance may do so by speaking with professionals who have a legally protected confidentiality. These individuals are referred to as Confidential Resources. On campus, Confidential Resources available to students are:

- All staff in the Colleges’ Center for Counseling and Student Wellness (“CCSW”);
- All staff in the Office of Religious Life; and
- All staff in Hubbs Health Center.

These resources, including contact information, are discussed more fully in Section VII.

Employees may access confidential assistance through the Employee Assistance Program. Information shared with these resources will remain confidential and will not be shared with the Colleges or anyone else without express permission of the individual seeking services.

B. Limitations on Confidentiality

1. Responsible Employees

Employees with supervisory and leadership responsibilities—faculty, coaches, administrators, Resident Assistants, and other student employees with a responsibility for student welfare—are considered “responsible employees” obligated to report information about sexual misconduct to the Title IX Coordinator or any member of the Title IX Team. (On the other hand, counselors in CCSW, the Chaplain and staff working in the Office of Religious Life, health care providers in the Hubbs Health Center, and staff supporting any of these individuals and functions are NOT considered responsible employees.)

The reports must be made to the Title IX Coordinator. See Section VII(C)(1)(d).

This obligation derives from Title IX, which requires colleges to take immediate and corrective action if a “responsible employee” knew or, in the exercise of reasonable care, should have known about sexual or gender-based harassment that creates a hostile environment. The Office for Civil Rights defines a “responsible employee” as any employee who:

- has the authority to take action to redress the harassment;
- has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees; or
- a student could reasonably believe has the authority or responsibility to take action.

Using this definition, all employees with supervisory and leadership responsibilities on campus are considered “responsible employees.” These employees are faculty, coaches, administrators, Resident Assistants, and student Orientation staff.

The Colleges require that all “responsible employees” share a report of misconduct with the Title IX Coordinator or a member of the Title IX Team. Reports must include all details of which the employee is aware, which may include the name of the Complainant and/or
Respondent, the alleged misconduct, the date, location, and time of the alleged misconduct, and any other information the employee has related to the misconduct.

The Title IX Team will undertake an initial assessment of the conduct and the Complainant’s expressed preferences, if any, as to course of action. As part of its initial assessment and on an ongoing basis, the Title IX Team will determine the necessity for any interim measures or accommodations to protect the safety of the Complainant or the community. In addition, the Title IX Team will consider the Complainant’s expressed preferences as to a course of action on an ongoing basis.

2. **Weighing a Request for Confidentiality**

Where a Complainant requests that no personally identifiable information be shared with the Respondent or that no formal action be taken, the Colleges will balance this request with its dual obligation to provide a safe and non-discriminatory environment for all HWS community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against a Respondent. When weighing a reporting individual’s request for confidentiality or that no investigation or discipline be pursued, the Colleges will consider a range of factors, including the following:

- the increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
  - whether there have been other sexual violence complaints about the same alleged perpetrator;
  - whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence; and
  - whether the alleged perpetrator threatened further sexual violence or other violence against the reporting student or others;
- whether the sexual violence was committed by multiple perpetrators;
- whether the sexual violence was perpetrated with a weapon;
- whether the reporting student is a minor;
- whether the Colleges possess other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence); and
- whether the reporting student’s report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.³

While there is no precise formula and factors will be weighed on a case-by-case basis, in weighing these factors, any factor related to the Colleges’ obligation to provide a safe and non-discriminatory environment for all HWS community members will be given great weight (for example, a pattern or potential for repetitive behaviors will weigh heavily in favor of proceeding

³ This list of factors is recommended by the White House Task Force to Protect Students from Sexual Assault, April 2014.
with an investigation). The Colleges will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but their ability to do so may be limited based on the nature of the request by the Complainant. Where the Colleges are unable to take action consistent with the Complainant’s request, the Title IX Coordinator or a member of the Title IX Team will inform the Complainant about the chosen course of action, which may include the Colleges seeking disciplinary action against a Respondent. This will necessarily limit the Colleges’ ability to keep the complaint confidential to the extent that, for example, the Colleges must speak with witnesses who may have relevant information related to the sexual misconduct. In the event that the Colleges determine that they must proceed despite a Complainant’s request for confidentiality or not to proceed, the Colleges will offer accommodations to support the Complainant, including changing living accommodations and/or class schedules, arranging for tutoring, offering counseling, and any other appropriate accommodation for the circumstances.

Alternatively, the course of action may also include steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal disciplinary action against a Respondent or revealing the identity of the Complainant. Depending on the circumstances, such steps might include increasing Campus Safety presence at a particular location, restricting access to a particular location, or rolling out an awareness campaign related to particular conduct that is targeted to a particular group or location or open to the entire community.

C. Timely Warnings

If Campus Safety and other necessary Colleges’ administrators determine that a report of misconduct discloses a serious or continuing threat to the HWS community, the Colleges may issue a campus-wide timely warning (which can take different forms, including an email to campus) to protect the health or safety of the community. This is a case-by-case analysis and often hinges on whether the threat is ongoing.

According to the U.S. Department of Education’s HANDBOOK FOR CAMPUS SAFETY AND SECURITY REPORTING, whether an institution issues a timely warning is determined on a case-by-case basis, considering all the facts surrounding a crime, including the following factors:

- **The nature of the crime.** This means that you should consider the type of crime that was reported. Was it a Clery crime? Did two students get drunk and attempt to steal a golf cart from the campus one night, or does it appear that professional car thieves are preying on your campus?

- **The continuing danger to the campus community.** This means that after a Clery crime is reported you should consider whether your students and employees are at risk of becoming victims of a similar crime. For example, if a rape is reported on campus and the alleged perpetrator has not been caught, the risk is there. If the

---

alleged perpetrator was apprehended, there is no continuing risk. Does a criminal incident appear to be a one-time occurrence or does it fall into a pattern of reported crimes? For example, if your students set some posters on fire after your school’s team lost the homecoming football game, the arsons are probably a one-night event. If an unknown person is randomly setting fires on campus, there is a continuing threat.

• The possible risk of compromising law enforcement efforts. This factor does not mean that in the event of a serious or continuing threat to your students or employees you should decide not to issue a timely warning. It means that you should take law enforcement efforts into consideration when you issue a warning. For example, you should warn students if there is a serial rapist preying on female joggers along the bike paths running through campus; you should not compromise law enforcement efforts by disclosing that two undercover female officers have been assigned to patrol the bike path.


The timely warning will not include any personally identifying information about the Complainant, such as name, race, age, or class year.

At no time will the Colleges release the name of the Complainant to the general public without the express consent of the Complainant. The release of the Respondent’s name to the general public is guided by the Family Educational Rights and Privacy Act (FERPA) and the Clery Act.

D. Compliance with all Applicable Laws Related to Privacy and Confidentiality

All Colleges proceedings are conducted in compliance with the requirements of FERPA, the Clery Act, 2013 Re-authorization of the Violence Against Women Act, Title IX, and state and federal law. No information shall be released from such proceedings except as required or permitted by law and Colleges’ policy.

V. PROHIBITED CONDUCT

Members of the Colleges’ community who engage in prohibited conduct will be subject to sanctions as discussed in Section XII(E)(8). Prohibited conduct includes all sexually-related conduct prohibited by state or federal law and the following:

A. Sexual Harassment

Any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when:
(1) submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual’s employment, evaluation of academic work or participation in any aspect of a College’s program or activity; or

(2) submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance, i.e., it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, humiliating, demeaning or sexually offensive working, academic, residential or social environment under both a subjective and objective standard.

A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. The determination of whether an environment is “hostile” must be based on all the circumstances. These circumstances could include, but are not limited to:

- the frequency of the speech or conduct;
- the nature and severity of the speech or conduct;
- whether the conduct was physically threatening;
- whether the speech or conduct was humiliating;
- the effect of the speech or conduct on the complainant’s mental and/or emotional state;
- whether the speech or conduct was directed at more than one person;
- whether the speech or conduct arose in the context of other discriminatory conduct;
- whether the speech or conduct unreasonably interfered with the complainant’s educational opportunities or performance (including study abroad), university-controlled living environment, work opportunities, or performance;
- whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or
- whether the speech or conduct deserves the protections of academic freedom

Sexual harassment also includes gender-based harassment, which may include acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex or sex- or gender-stereotyping, even if those acts do not involve conduct of a sexual nature.

Sexual harassment:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
• Does NOT have to include intent to harm, be directed at a specific target or involve repeated incidents.

• May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational or employment relationships, harassment can occur in any context.

• May be committed by a stranger, an acquaintance or someone with whom the Complainant has an intimate or sexual relationship.

• May be committed by or against an individual or may be a result of the actions of an organization or group.

• May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.

• May occur in the classroom, in the workplace, in residential settings, or in any other setting.

• May be a one-time event or can be part of a pattern of behavior.

• May be committed in the presence of others or when the parties are alone.

• May affect the Complainant and/or third parties who witness or observe harassment and are affected by it.

Examples of conduct that may constitute sexual harassment as defined above may include a severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:

• Physical conduct:
  o unwelcome touching, sexual/physical assault, impeding, restraining or blocking movements
  o unwanted sexual advances

• Verbal conduct:
  o making or using derogatory comments, epithets, slurs or humor, not pedagogically appropriate
  o verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations, not pedagogically appropriate
  o objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes, which a reasonable peer would find offensive and which are not pedagogically appropriate

• Visual conduct:
  o leering, making sexual gestures, displaying of suggestive objects or pictures, cartoon or posters in a public space or forum, not pedagogically appropriate
o severe, persistent or pervasive visual displays of suggestive, erotic or degrading sexually oriented images, not pedagogically appropriate

• Written conduct: letters, notes or electronic communications containing comments, words or images described above, not pedagogically appropriate

• Quid pro quo conduct:
  o direct propositions of a sexual nature between those for whom a power imbalance or supervisory or other authority relationship exists
  o offering employment benefits in exchange for sexual favors
  o making submission to sexual advances an actual or implied condition of employment, work status, promotion, grades or letters of recommendation, including subtle pressure for sexual activity, an element of which may be repeated requests for private meetings with no academic or work purpose
  o making or threatening reprisals after a negative response to sexual advances

B. Sexual Assault

Having or attempting to have sexual intercourse or sexual contact with another individual:

• by force or threat of force;
• without effective consent; or
• where that individual is incapacitated.

Sexual intercourse includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact or with an object used in a sexual manner.

Sexual contact includes intentional contact with the intimate parts of another, causing another to come into contact with one’s intimate parts or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner.

C. Sexual Exploitation

When an individual takes non-consensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to:

• surreptitiously observing another individual’s nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
• non-consensual sharing or streaming of images, photography, video or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;
• exposing one’s genitals or inducing another to expose their own genitals in non-consensual circumstances;
• knowingly exposing another individual to a sexually transmitted disease or virus without his or her knowledge;
• sexually-based stalking and/or bullying; and
• inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

D. Intimate Partner/Dating/Domestic/Relationship Violence

Intimate partner violence is also referred to as dating violence, domestic violence or relationship violence. Intimate partner violence includes any act of violence or threatened act of violence against a person who is, or has been involved in, a social relationship of a sexual, dating, domestic, or other intimate nature with the Respondent. Intimate partner violence can encompass a broad range of behavior including, but not limited to, physical violence, sexual violence, emotional violence, and economic abuse. It may involve one act or an ongoing pattern of behavior. Intimate partner violence may take the form of threats, assault, property damage, violence, or threat of violence to one’s self, one’s sexual or romantic partner or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities, gender expressions, and sexual orientation and does not discriminate by racial, social, or economic background. The existence of the relationship shall be determined based on a victim’s statement with consideration of the length of the relationship, the type of relationship, and the frequency of the relationship.

Domestic violence is violent crime committed by a current or former spouse or intimate partner; a person sharing a child with the victim; and/or a person cohabitating with or who has cohabitated with the victim as a spouse or intimate partner.

The Colleges will not tolerate intimate partner violence of any form. For the purposes of this Policy, the Colleges do not define intimate partner violence as a distinct form of misconduct. Rather, the Colleges recognize that sexual harassment, sexual assault, sexual exploitation, harm to others, stalking, and retaliation all may be forms of intimate partner violence when committed by a person who is or has been involved in a sexual, dating or other social relationship of a romantic or intimate nature with the Complainant.

Under Clery and the Campus SaVE Act, the Colleges will record and report all relevant incidents of intimate partner violence.

E. Stalking

Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under
circumstances that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

- **Course of conduct** means two or more acts, including but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person’s property.

- **Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- **Reasonable person** means a reasonable person under similar circumstances and with similarities to the victim.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts or other similar devices or forms of contact are used to pursue, harass or to make unwelcome contact with another person in an unsolicited fashion.

Examples of stalking include:

- unwelcome and repeated visual or physical proximity to a person;
- repeated oral or written threats;
- extortion of money or valuables;
- unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on online bulletin boards;
- unwelcome/unsolicited communications about a person, their family, friends, or co-workers; or
- sending/posting unwelcome/unsolicited messages with an assumed identity; or
- implicitly threatening physical contact; or
- any combination of these behaviors directed toward an individual person.

**F. Physical Assault**

*Physical assault* is a purposeful action meant to hurt another person. Examples include, but are not limited to, kicking, punching, hitting with or throwing an object or biting. When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this Policy.

**G. Harm to Others**

*Harm to others* is words or types of conduct that threaten or endanger the health or safety of any person including physical abuse, verbal abuse, threats, intimidation, and/or harassment. This behavior is typically treated as a violation of the Colleges’ Community Standards. Acts that
constitute harm to others and that are a form of intimate partner violence or are based on sex or gender will be resolved under this Policy.

H. Bullying and Intimidation

Anyone who attempts to use bullying or intimidation to retaliate against someone who reports an incident, brings a complaint, or participates in an investigation in an attempt to influence the resolution of a complaint under this Interim Sexual Misconduct Policy will be considered to have engaged in retaliation under this Policy and will be subject to disciplinary action.

Bullying includes any intentional electronic, written, verbal, or physical act or a series of acts directed at another individual that is severe, persistent, or pervasive and that has the intended effect of doing any of the following:

- substantially interfering with an individual’s education or employment;
- creating a threatening environment; or
- substantially disrupting the orderly operation of the Colleges.

Intimidation is any verbal, written, or electronic threats of violence or other threatening behavior directed toward another person or group that reasonably leads the person(s) in the group to fear for her/his physical well-being.

I. Indecent Exposure

A person commits indecent exposure if that individual exposes the individual’s genitals in any public place or in any place where there are present other persons under circumstances in which one knows or should know that this conduct is likely to offend, affront or alarm when the exposure is not pedagogically appropriate.

J. Retaliation

Acts or attempts to retaliate or seek retribution against the Complainant, Respondent or any individual or group of individuals involved in the complaint, investigation, and/or resolution of an allegation of sexual misconduct. Retaliation can be committed by any individual or group of individuals, not just a Respondent or Complainant. Retaliation can take many forms, including threats, intimidation, pressuring, continued abuse, violence or other forms of harm to others.

Actions are considered retaliatory if they are in response to a good faith disclosure of real or perceived misconduct and the actions have a materially adverse effect on the working, academic or Colleges-controlled living environment of an employee or student; or if the faculty, employee, or student can no longer effectively carry out his or her responsibilities.
VI. RELATED DEFINITIONS: CONSENT, FORCE, COERCION, INCAPACITATION, AND ALCOHOL AND OTHER DRUGS

A. Consent

Consent to engage in sexual activity must be knowing and voluntary; it must exist from the beginning to end of each instance of sexual activity and for each form of sexual contact. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Consent is active, not passive. The following are essential elements of effective consent:

• Informed and reciprocal: All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way. Pursuant to New York state law, an individual less than 17 years old is incapable of consent.

• Freely and actively given: Consent cannot be obtained through the use of force, coercion, threats, intimidation or pressuring or by taking advantage of the incapacitation of another individual. Coercion, force, or threat of either invalidates consent.

• Mutually understandable: Communication regarding consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. In the absence of clear communication or outward demonstration, there is no consent. Consent may not be inferred from silence, passivity, lack of resistance or lack of active response. An individual who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Mutually understandable consent is best achieved through clear, verbal communication. Do not rely solely upon non-verbal communication.

• Not indefinite: Consent may be withdrawn by any party at any time. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity. Withdrawal of consent can be expressed by saying “no” or can be based on an outward demonstration that conveys that an individual is hesitant, confused, uncertain or is no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease immediately and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.

• Not unlimited: Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to activity with any other person. Each participant in a sexual encounter must consent to each form of sexual contact with each participant.

Even in the context of a current or previous intimate relationship, each party must consent to each instance of sexual contact each time. The consent must be based on mutually
understandable communication that clearly indicates a willingness to engage in sexual activity. The mere fact that there has been prior intimacy or sexual activity does not—by itself—imply consent to future acts.

**1. Consensual Sexual Activity between Employees and Students**

An ethic of professionalism and respect within the Colleges’ community demands that those with authority not abuse the power with which they are entrusted. Consensual sexual relationships between employees and students may not only have negative repercussions for the individuals involved, but may create an uncomfortable or distrustful environment for others in the community. The power differential complicates the ability to demonstrate that any such relationship is fully consensual. Given the complications associated with these types of relationships, it should be noted that professors could be faced with a personal civil or criminal action as a result of engaging in such relationships.

Because of the potential for favoritism or other conflicts of interest, the Colleges affirm and uphold a policy which strongly discourages all consensual sexual activity between students and employees, and which prohibits such activity where any supervisory role exists. Therefore,

- faculty members shall not engage in consensual sexual relationships with students enrolled in their courses; and
- faculty members or other employees of the Colleges shall not engage in consensual sexual relationships with students under their supervision in such matters as evaluating, advising, coaching or directing a student as part of a school program.  

Such conduct results in relationships that are fundamentally asymmetrical and contradicts both professional ethics and Colleges’ policy. Where such a relationship develops, it is the obligation of the employee to bring this matter to the immediate attention of the supervisor, who will take action as necessary to shift class sections or supervisory roles to eliminate conflicts of interest.

**B. Force**

Force is the use or threat of physical violence or intimidation to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity. For the use of force to be demonstrated, there is no requirement that a Complainant resists the sexual advance or request. However, resistance by the Complainant will be viewed as a clear demonstration of non-consent.

**C. Coercion**

Coercion is the improper use of pressure to compel another individual to initiate or continue sexual activity against that individual’s will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person’s words or conduct are sufficient to constitute coercion if they wrongfully impair another individual’s

---

5 Adapted from Washington University at St. Louis policy.
freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include threatening to “out” someone based on sexual orientation, gender identity or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity. Coercing an individual into engaging in sexual activity violates this Policy in the same way as physically forcing someone into engaging in sexual activity.

D. Incapacitation

Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if the individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring. An individual may be awake and seemingly aware but nevertheless unable to communicate consent or escape a situation involving sexual misconduct.

Incapacitation may result from the use of alcohol and/or drugs. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impact an individual’s:

• decision-making ability;
• awareness of consequences;
• ability to make informed judgments; and
• capacity to appreciate the nature and the quality of the act.

Evaluating incapacitation also requires an assessment of whether a Respondent knew or should have known that the Complainant was incapacitated. Individuals engaging in sexual activity should continually evaluate incapacitation throughout the encounter.

E. Alcohol and Other Drugs

In general, sexual contact while under the influence of alcohol or other drugs poses a risk to all parties. Alcohol and drugs impair a person’s decision-making capacity, awareness of the consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person’s level of intoxication. An individual’s level of intoxication may be evident by, among other things, by slurred speech, unsteady walking, clumsiness, and/or vomiting.

If there is any doubt as to the level or extent of the other individual’s intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, sexual violence, stalking or intimate partner violence and does not diminish one’s responsibility to obtain consent.
VII. RESOURCES & FIRST RESPONSE SUPPORT OPTIONS

A. Overview

The Colleges are committed to treating all members of our community with dignity, care, and respect. Any individual affected by sexual violence or harassment—whether as a Complainant, a Respondent or a third party—will have equal access to support and counseling services through the Colleges. The Colleges recognize that deciding whether to make a report and choosing how to proceed can be difficult decisions, and thus encourage any individual who has questions or concerns to seek the support of campus and community resources. Professionals on campus can provide information about available resources and procedural options and assist any party with a report and/or resolution under this Policy. The Colleges encourage individuals to use all available resources, regardless of when or where the incident occurred.

B. Emergency Support Services in the Event of a Sexual Assault

The Colleges encourage all individuals to seek assistance from a medical provider and law enforcement as soon as possible after a sexual assault. These options are the best way to obtain physical safety, emotional support, and medical care; they also ensure preservation of evidence and to facilitate a timely investigation and remedial response. Of course, it is always the student’s decision to make and the Colleges will support whatever decision is made.

You can call Safe Harbors for support on the crisis hotline—800.247.7273—24 hours a day, 7 days a week. Safe Harbors will accompany anyone seeking health care after an incident of sexual violence.

1. Campus Safety and Law Enforcement

We encourage students to report all sexual assaults to the Geneva Police Department and Campus Safety.

The Colleges and local law enforcement will provide assistance 24 hours a day, 365 days a year. The Colleges (often Campus Safety) will escort any Colleges’ community member to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about the Colleges’ resources and complaint processes. Any individual can request that Campus Safety and/or the Geneva Police Department respond and take a report by calling:

• Campus Safety at extension 3333 or 315.781.3333
• **Geneva Police Department at 315.789.1111**
  
  Note that the response time for any call to 911 will be longer due to the location of law enforcement assigned to respond to 911 calls. Please call the Geneva Police Department directly if you need a more immediate response.

2. **Emergency Health Care**

Individuals who have experienced sexual violence can also call **Hubbs Health Center** or any local medical provider of their choice for confidential emergency care.

The Colleges will ensure that victims of sexual violence are not charged for the cost for emergency health care provided to them.

• **Hubbs Health Center** staff will provide free, confidential medical consultations for students. Students can reach Hubbs Health Center by:
  
  o visiting the Center at 119 St. Clair Street on campus; and/or
  
  o calling **315.781.3600** between 8:30 a.m. and 7:30 p.m., Monday through Friday, 1:00 pm to 5:00 pm, Sunday.

**NOTE:** Hubbs Health Center does not have staff certified in sexual assault forensic examination (commonly referred to as a “rape kit”), but F.F. Thompson Hospital in Canandaigua does. The Colleges encourage any individual who has experienced sexual assault to obtain such an exam.

• **F.F. Thompson Hospital**, located at 350 Parrish Street in Canandaigua (or at 315.396.6000)

  For **EMERGENCIES that occur when Hubbs Health Center is closed or if the student prefers not to go to Hubbs Health Center**, students should:

  • Call the **Geneva Police Department at 315.789.1111**
  
  • Call **Campus Safety** at extension 3333 or 315.781.3333;
  
  • Proceed directly to **F.F. Thompson Hospital** in Canandaigua, located at 350 Parrish Street in Canandaigua (or at 315.396.6000); or
  
  • Proceed directly to **Geneva General Hospital** in Geneva, located at the junction of North Main and North Streets in Geneva (or call at 315.787.4500). **NOTE:** Geneva General does not have staff certified in sexual assault forensic examination (commonly referred to as a “rape kit”), but F.F. Thompson Hospital in Canandaigua

---

6 Upon receipt of an emergency call, GPD will notify Campus Safety that it is responding to campus, and Campus Safety will also respond, often before GPD given Campus Safety’s proximity.

7 Under certain circumstances, a health care provider may be required to notify law enforcement of a sexual assault committed against a minor as discussed in Appendix B.
does. The Colleges encourage any individual who has experienced sexual assault to obtain such an exam.

**Rape Kits**

F.F. Thompson staff includes a Sexual Assault Forensic Examiner Nurse (sometimes referred to as a Sexual Assault Nurse Examiner). SAFE/SANE nurses provide free medical care for victims of sexual assault, and are specially trained in conducting sexual assault exams and collecting and preserving forensic evidence of the assault for possible prosecution of the perpetrator.

- **SAFE/SANE Nurse:** F.F. Thompson Hospital 360 Parrish Street Canandaigua, N.Y. 14424 315.396.6000

Such a medical exam (commonly referred to as a “rape kit”) has two goals: (1) to diagnose and treat the full extent of any injury or physical effect, and (2) to properly collect and preserve evidence. The exam may include testing and prophylactic treatment for HIV/AIDS, STIs, and pregnancy; a vaginal examination; collecting fingernail scrapings and/or clippings; examining for injuries; and drawing blood. In order to preserve evidence, a rape exam must be completed within a limited timeframe after the assault (typically 48 hours). Gathering such evidence does NOT commit an individual to pursuing legal action against the perpetrator, but does preserve that option. Although it may be difficult following a sexual assault, individuals who are considering or may consider legal action should try not to shower or change clothes to allow for the maximum possible collection of evidence by a SAFE nurse or other health care provider.

While hospitals are not required to report any non-identifying information to the Colleges or to anyone else, hospitals providing care to individuals reporting sexual assault are required to:

- collect and maintain the chain of custody of sexual assault evidence for not less than 30 days **unless** the patient signs a statement directing the hospital not to collect it;
- advise the individual seeking medical treatment related to sexual assault of the availability of the services of a local rape crisis or victim assistance organization to accompany the individual through the sexual offense examination;
- contact a rape crisis or victim assistance organization providing assistance to the geographic area served by that hospital to establish the coordination of non-medical services to individuals reporting sexual assault who request such coordination and services; and
- provide emergency contraception upon the patient’s request.

**Even if an individual who has experienced sexual violence does not have visible injuries requiring emergency attention**, the Colleges encourage that individual to seek medical care as soon as possible, whether at Hubbs Health Center, F.F. Thompson, or Geneva General.
The primary purpose of the medical evaluation is to check for physical injuries, reduce risk of complications from sexually transmitted diseases as a result of the assault, and/or (if appropriate) reduce risk of pregnancy.

Please know that, in most instances, any health care provider will likely encourage an individual reporting sexual assault to authorize collection of evidence. For individuals who seek initial medical treatment at Hubbs Health Center and agree to evidence collection, the individual will be escorted to the nearest hospital by Campus Safety or will be escorted to a taxi (the Colleges will provide a voucher) to be transported to the chosen medical provider. Hubbs Health Center will provide follow-up medical care, as will F.F. Thompson and Geneva General Hospitals.

3. **Emergency Mental Health Support**

Any individual who has experienced sexual violence may speak with a Center for Counseling and Student Wellness (“CCSW”) counselor at any time. CCSW is located at 91 St. Clair Street in Geneva. During an after-hours mental health EMERGENCY, call Campus Safety at 315.781.3333 to reach the counselor on call. When school is in session, an on-call counselor is available 24 hours a day, 7 days a week. Students can also access the on-call counselor by contacting their Resident Assistant or Area Coordinator or by calling Campus Safety at 315.781.3333. A student who contacts Campus Safety need only provide a first name and telephone number, and ask the dispatcher to have the counselor return the call to the number provided.

You can reach CCSW during normal business hours (9:00 a.m. to 12:00 noon, 1:15 to 5:00 p.m.) at 315.781.3388.

The Colleges also maintain a relationship with Safe Harbors, Inc., a local rape crisis and relationship violence support agency. Safe Harbors offers free, confidential crisis counseling; support groups; support during medical exams; and advocacy and guidance in reporting sexual violence to local police and in navigating the judicial process. Individuals who have experienced sexual violence can:

- Call Safe Harbors for support 24 hours a day, 7 days a week on the crisis hotline: 800.247.7273
- Call Safe Harbors for support during business hours at 315.781.1093
- Visit Safe Harbors’ website at http://safeharborsfl.org/

C. **Confidential Resources and Support**

The Colleges encourage individuals who have experienced sexual violence to get needed support and to enable the Colleges to respond appropriately. This section of the Policy is intended to make members of the HWS community aware of the various reporting and confidential disclosure options available to them to enable informed choices about reporting sexual violence. The Colleges strongly encourage all individuals who have experienced sexual violence to talk to someone identified in one or more of the groups below.
In making the decision to speak with someone to get support or information, it is important to understand that different members of the campus community have different abilities to maintain confidentiality.

- Some employees are required to maintain near complete confidentiality, and thus talking to these individuals is sometimes called a “privileged communication.”
  - These individuals are professional counselors, pastoral counselors, and health care professionals and the staff working with these professionals.
- Other employees are required to report all the details of an incident (including the identities of both the person who comes to them and the alleged perpetrator) to the Title IX Coordinator. A report to these employees—responsible employees—constitutes a report to the Colleges and generally obligates the Colleges to investigate the incident and take appropriate steps to address the situation. All employees with supervisory and leadership responsibilities on campus are considered “responsible employees.” These employees are faculty, coaches, administrators, Resident Assistants, and student Orientation staff.

1. **On-Campus Privileged and Confidential Communications**

Professional licensed counselors and pastoral counselors who provide mental health counseling to members of the campus community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without the permission of the individual seeking support. However, the Colleges expect all such counselors to inform individuals of their options for on- and off-campus reporting of the sexual violence incident triggering the report.

   a. **Professional Counselors**

   There are number of counselors on staff at the Center for Counseling and Student Wellness ("CCSW"), which is located at 91 St. Clair Street in Geneva. The phone number during normal business hours (9 a.m. to 12 noon, 1:15 p.m. to 5 p.m.) is **315.781.3388**. For **after-hours** mental health emergencies, individuals should call Campus Safety at **315.781.3333**. When school is in session, an on-call counselor is available 24 hours a day, 7 days per week. Students can access the on-call counselor by contacting their Resident Assistant or Area Coordinator or by calling Campus Safety at **315.781.3333**. A **student contacting Campus Safety provides a first name and telephone number, and asks the dispatcher to have the counselor return the call.**

   b. **Pastoral Counselors**

   Individuals can confidentially report sexual violence to the Chaplain or any staff in the Colleges’ Office of Religious Life located at St. John’s Chapel, 630 S. Main Street in Geneva and/or by calling **315.781.3670**. Reach Maurice Charles, Chaplain, at **charles@hws.edu**

---

8 Under certain circumstances, a psychologist or mental health counselor may be required to notify law enforcement of a sexual assault committed against a minor as discussed in Appendix B.
c. Health Services

Hubbs Health Center staff will provide free, confidential medical consultations for students. Students can visit the Health Center at 119 St. Clair Street in Geneva and/or by calling 315.781.3600 between 8:30 a.m. and 7:30 p.m., Monday through Friday, 1:00 pm to 5:00 pm, Sunday.

Neither Hubbs Health Center nor Geneva General have staff certified to conduct a sexual assault forensic examination. However, F.F. Thompson has Sexual Assault Nurse Examiners on staff with specialized training in conducting sexual assault exams and collecting and preserving forensic evidence.

For emergencies that occur while the Health Center is closed, students should call Campus Safety at ext. 3333 or 315.781.3333 or proceed directly to F.F. Thompson Hospital in Canandaigua or Geneva General Hospital in Geneva.

d. Staff in the Offices of CCSW, Hubbs Health Center, and the Office of Religious Life

Any other individual who works or volunteers in CCSW, Hubbs Health Center, or the Office of Religious Life can talk to a reporting student without any obligation to reveal to the Colleges any information about an incident. Assistance and support from employees or volunteers at CCSW, Office of Religious Life, and Hubbs Health Center will not trigger an investigation that could reveal the reporting individual’s identity or that the individual has disclosed the incident.

2. Off-Campus Confidential Reporting

Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information unless the reporting individual requests the disclosure and signs a consent or waiver form.

a. Counselors and Advocates

Safe Harbors (http://safeharborsfl.org/) is a local rape crisis center that offers free, confidential crisis counseling; support groups; support during medical exams; and advocacy and guidance in reporting sexual violence to local police and in navigating the judicial process. Individuals can call Safe Harbors for support 24 hours a day, 7 days a week on the crisis hotline: 800.247.7273. (During business hours, individuals can also call 315.781.1093.)

Employees may also avail themselves of confidential counseling at Family Counseling Service of the Finger Lakes, Inc. through the Colleges’ Employee Assistance Program. Family Counseling Service will provide confidential counseling to eligible employees and their families (http://www.fcsfl.org/index.html). Employees can reach the Family Counseling Service as follows:

• Visit the office at 671 South Exchange Street, Geneva
Call 315.789.2613 or 1.877.789.2613 (toll free)

Family Counseling Service of the Finger Lakes, Inc. also maintains a 24 hour, 7 day a week domestic violence hotline with trained staff and volunteers for support and crisis counseling, and to assist in emergencies. The hotline number is 1.800.695.0390. All services are confidential (with the exception of revelations of child abuse, homicide, or suicide).

b. Health Care

Students can also seek medical treatment at the F.F. Thompson Hospital Emergency Room, located at 350 Parrish Street in Canandaigua. F.F. Thompson staff includes a Sexual Assault Nurse Examiner (sometimes referred to as a Sexual Assault Forensic Examiner Nurse), specially trained in conducting sexual assault exams and collecting and preserving forensic evidence. The phone number for F.F. Thompson is 315.396.6000.

Students can also seek medical treatment at the Geneva General Hospital Emergency Room, located at the junction of North Main and North Streets in Geneva. The phone number for Geneva General is 315.787.4500. Geneva General Hospital does not have a Sexual Assault Nurse Examiner (sometimes referred to as a Sexual Assault Forensic Examiner Nurse) on staff.

3. Limitations Associated with Confidential Reporting

An individual who speaks to an on-campus professional, chaplain, or, health care provider must understand that, if the individual wants to maintain confidentiality, the Colleges may be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. Even so, the on-campus counselors, chaplain, and health care providers will still assist the student in receiving and locating other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working, or course schedules. An individual who at first requests confidentiality may later decide to report the incident to local law enforcement and/or file a complaint with the Colleges. These on-campus counselors and health care providers will provide the student with assistance if the individual wishes to take further or formal action on- or off-campus.

Please note that, while on-campus professional counselors, the chaplain, and health care providers may maintain a reporting individual’s confidentiality with respect to further reporting to the Colleges, their ability to maintain confidentiality may be limited in the following circumstances:

- If a counselor or health care provider believes that the individual seeking resources or support or someone else is in clear and imminent danger of harm, the counselor is legally obligated to take steps to ensure safety. In such situations, the counselor or health care professional is permitted to breach confidentiality in order to obtain necessary help from appropriate resources, which may include administrators, medical staff, and/or the student’s family.
• Under certain circumstances, if an individual provides information indicating that a minor (someone under 18 years old) is being abused or has been sexually assaulted, the counselor or health care provider is legally required to notify proper authorities.

• In addition to mandated reporting requirements, there may be other circumstances in which a counselor or health care provider may decide it is necessary and/or appropriate to notify the minor’s parents.

• In rare cases, a court order or subpoena may require a counselor or health care provider to disclose information.

If the Colleges determine that the alleged perpetrator(s) poses a serious and ongoing threat to the Colleges’ community, the Colleges may decide to issue a timely warning to the community. However, any such warning will not include any information that identifies the reporting student.

D. Education and Prevention Programs

The Colleges are committed to educating and promoting community awareness about the prevention of sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, and sex- or gender-based harassment that does not involve conduct of a sexual nature. Using a variety methods and offices, the Colleges will offer programs to promote awareness and prevention of such issues throughout the year. Prevention programs will include an overview of the Colleges’ policies and procedures, relevant definitions (including prohibited conduct, discussion of the impact of alcohol and illegal drug use, effective consent), and information about bystander intervention and risk reduction.

The Colleges’ Title IX Coordinator oversees the education and prevention calendar, tailoring programming to campus needs and climate. Incoming first-year students and new employees will receive primary prevention and awareness programming as part of their orientation. Returning students and employees will receive ongoing training on a periodic basis. All educational programs include a review of resources and reporting options available for students, faculty, and staff.

VIII. Reporting

Reporting decisions are the students’ decisions to make.

The Colleges encourage all individuals to make a report to the Colleges and to local law enforcement.

Reporting options are not mutually exclusive.

Both internal and criminal reports may be pursued simultaneously or not at all.

At the time a report is made, a Complainant does not have to decide whether or not to request disciplinary action or file a criminal complaint.

Faculty, coaches, administrators, RAs, and student Orientation staff
As outlined in Section VII(B) describing Emergency Support Services in the Event of a Sexual Assault, the Colleges encourage all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual violence.

A. Overview

The Colleges encourage all community members to report sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, and sex- or gender-based harassment that does not involve conduct of a sexual nature. The Colleges will respond to any information they receive—whether from a Complainant, third party or anonymously—against a named Respondent.

The Colleges are committed to providing a variety of welcoming and accessible means of reporting sexual misconduct so that all instances of sexual assault or harassment will be reported. All Colleges’ community members not required to make a report under this Interim Sexual Misconduct Policy are strongly encouraged to report information regarding any incident of sexual assault or harassment to the Title IX Coordinator. The Title IX Coordinator is specifically charged with coordinating the initial assessment, initiating the investigation, and responding to allegations of sexual assault or harassment to stop the harassing conduct, address its effects, and prevent its recurrence.

Faculty, coaches, administrators, Resident Assistants, and student Orientation staff are required to share with the Title IX Coordinator any report of sexual assault or harassment they receive or of which they become aware. These individuals are required to share with the Title IX Coordinator all information of which they are aware, including the identities of the parties involved in the acts of sexual misconduct, if known. On the other hand, employees who work in CCSW, Hubbs Health Center, and the Office of Religious Life are not required to share with the Title IX Coordinator any information related to a report of sexual assault or harassment.

At the time a report is made, a Complainant does not have to decide whether or not to request disciplinary action. Choosing to make a report and deciding how to proceed after making the report can be a process that unfolds over time. To the extent possible, the Colleges will respect an individual’s autonomy in making these important decisions and provide support that will assist each individual in making that determination. Individuals have the option to: 1) notify Campus Safety; (2) notify law enforcement authorities; 3) be assisted by the Colleges in
notifying law enforcement authorities; and 4) decline to notify Campus Safety or law enforcement.

The Colleges recognize that not every individual will be prepared to make a report to the Colleges or to law enforcement, and individuals are not expected or required to pursue a specific course of action. As outlined in the Resources section of this Policy, the Colleges offer a number of confidential resources on campus, which can be supplemented by other community resources, to individuals who want support—regardless of whether they currently plan to make a report to the College. Information shared with the identified confidential resources will not be reported to the Colleges.

As outlined in Section IV regarding privacy and confidentiality, the Colleges respect the privacy interests of students, faculty, and staff. All information reported to the Title IX Team will be shared only with those Colleges’ employees or designees who will assist in the investigation and/or resolution of the complaint, or whose assistance is required to implement interim measures and any accommodations for the individuals involved.

The Title IX Coordinator, working with the Title IX Team, will ensure that the Colleges respond to all reports in a timely, effective, and consistent manner. The Title IX Team is charged with coordinating the review, investigation, and resolution of all reports to ensure consistent responsiveness, and the integrated provision of interim measures to support the individuals involved and to protect the Colleges community. The Colleges are committed to using a consistent and informed response to create a culture of mutual accountability. When community members report incidents of sexual assault and harassment as provided in this Policy, the Title IX Team is committed to providing support, assessing individual and campus safety, and effectively responding.

The Colleges will promptly review and respond to all reports of sexual violence and harassment in an integrated, consistent manner that treats each individual with dignity and respect and that seeks to understand the perspective and experiences of each individual involved in order to ensure fair and impartial evaluation and resolution.

**B. Reporting to Law Enforcement**

The Colleges encourage Complainants to pursue criminal action for incidents of sexual assault or harassment that may also be crimes under New York criminal statutes. The Colleges will assist a Complainant, at the Complainant’s request, in contacting local law enforcement and will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process to the extent permitted by law.

Except where the Complainant is under 18 years old, the Colleges will generally respect a Complainant’s choice whether or not to report an incident to local law enforcement, unless the Colleges determine that there is an overriding issue with respect to the safety or welfare of the Colleges’ community. Where a report involves suspected abuse of a minor less than 18 years old, certain individuals at the Colleges may be required by state law to notify law enforcement and/or the New York Statewide Central Register of Child Abuse and Maltreatment, as discussed further in Appendix B.
The Colleges’ policy, definitions, and standard of review differ from New York criminal law. A Complainant may seek resolution through the Colleges’ complaint process, may pursue criminal action, may choose one but not the other, may choose both, or may choose neither. Neither law enforcement’s determination whether or not to prosecute a Respondent nor the outcome of any criminal prosecution are determinative of whether sexual assault or harassment has occurred under this Policy. Proceedings under the Colleges’ Interim Sexual Misconduct Policy may be carried out prior to, simultaneously with, or following off-campus civil or criminal proceedings.

1. **Victim Assistance Programs**

Individuals making a report to local law enforcement may also avail themselves of services through the **New York State Office for Victim Services** (“OVS”). The OVS funds local Victim Assistance Programs (“VAPs”) including:

  1569 Rochester Road, Canandaigua, New York 14425

- Victim/Witness Assistance Program at the Ontario County District Attorney’s Office (585.396.4010 or [http://www.co.ontario.ny.us/da/](http://www.co.ontario.ny.us/da/))
  27 North Main Street, Canandaigua, New York 14424

  122 North Genesee Street, Suite A-204, Geneva, New York 14456

Among other things, these VAPs offer a crime victim advocate that can provide direct assistance to victims and their families as they navigate the criminal justice process. In addition to funding VAPs, in certain circumstances the OVS provides compensation to innocent victims of crime for their out-of-pocket losses related to a crime (such as medical or counseling expenses). In order to take advantage of the services offered by the OVS, a victim must have reported the crime to the police. To obtain compensation, a victim must complete an application supported by related police reports and other documentation. OVS is considered a payer of last resort, meaning that all other sources of compensation must be exhausted before OVS will pay a claimant for out-of-pocket losses related to the crime.

Students of the Colleges can learn more about the OVS by visiting [http://www.ovs.ny.gov/](http://www.ovs.ny.gov/) or by contacting by phone or visiting the website for the Victim Assistance Programs using the information above.

2. **Simultaneous Investigations of the Colleges and GPD**

Where the Complainant reports to both Geneva Police Department (“GPD”) and the Colleges, there will be some coordination of the simultaneous or parallel investigations. The Colleges may agree to defer their fact-gathering until after the initial stages of a criminal
investigation. During that time, the Colleges will continue to offer support to the Complainant, including discussing Title IX rights, procedural options, and needed interim measures to ensure safety and well-being. The Colleges will promptly resume their fact-gathering as soon as law enforcement has completed its initial investigation.

The Colleges and the GPD will timely share information in parallel investigations, except that the GPD may manage sharing of information so as not to impede its ongoing law enforcement investigation. In addition, the Colleges’ ability to share information related to its own investigation and/or adjudication of certain offenses involving a student or students will be governed by the Family Educational Rights and Privacy Act, which prohibits disclosure of student education records containing personally identifiable information except under certain circumstances.

C. Campus Reporting Options

The Colleges recognize that a student or employee may choose to report sexual assault or harassment to any employee of the Colleges. For example, a student may choose to talk with an assistant dean, a Resident Assistant, a faculty member, or a coach. An employee may choose to tell a supervisor or colleague. This Policy requires all faculty, coaches, administrators, Resident Assistants, and other student employees who have responsibility for the welfare of other students who receive a report of sexual assault or harassment to contact the Title IX Coordinator to share all information related to the report, including the names of the individuals involved, the specific allegations, and the date, time, and location of the incident.

To enable the Colleges to respond to all reports in a prompt and equitable manner, the Colleges encourage all individuals to directly report any incident to the Title IX Coordinator, to any member of the Title IX Team, or to any of the following:

• Susan Lee, Title IX Coordinator: 315.781.3922
• Campus Safety: ext. 3333 or 315.781.3333
• William Smith Dean’s Office: 315.781.3467
• Hobart Dean’s Office: 315.781.3300

D. Anonymous Reporting

Any individual may make an anonymous report concerning an incident of sexual assault or harassment, including through the Colleges’ online Bias Incident Reporting System. www.hws.edu/about/bias_reporting.aspx

Any individual may report an incident without disclosing one’s name, identifying the Complainant or Respondent or requesting any action. As with all other reports, all anonymous reports will go to Campus Safety and the Title IX Coordinator for review and appropriate response and action. Despite that the report is submitted anonymously, Campus Safety and the Title IX Coordinator will evaluate each report to determine whether any responsive action is
necessary and, when warranted, will take action—including investigation and follow-up with individuals identified. The level of information available about the incident or the individuals involved directly affects the Colleges’ ability to respond or take further action.

Where there is sufficient information, the Colleges will ensure that anonymous reports are reviewed and included for compliance with the Clery Act.

E. Reporting Considerations

1. Timeliness of Report, Location of Incident

Complainants and third-party witnesses are encouraged to report sexual assault and harassment as soon as possible in order to maximize the Colleges’ ability to respond promptly and effectively. The Colleges do not, however, limit the timeframe for reporting. If the Respondent is no longer a student or employee, the Colleges may not be able to take action against the Respondent, but it will still seek to meet its Title IX obligation by taking steps to end the harassment, prevent its recurrence, and address its effects.

An incident does not have to occur on campus to be reported to the Colleges. Off-campus conduct that is likely to have a substantial adverse effect on any member of the Colleges community or the Colleges may be covered under this Policy (e.g., sexual assault at an off-campus party).

2. Amnesty for Personal Use of Alcohol or Other Drugs

The Colleges seek to remove all barriers to reporting sexual misconduct. For this reason, the Colleges will offer any student who reports sexual assault or harassment (whether the Complainant or a third party) immunity from being charged for policy violations related to the personal ingestion of alcohol or other drugs.

F. Statement Against Retaliation

As stated above, retaliation is a violation of Colleges’ policy. The Colleges recognize that retaliation can take many forms, may be committed by or against an individual or a group, and that a Respondent or third party may also be the subject of retaliation by another individual, including the Complainant.

An individual reporting sexual assault or harassment is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is not later substantiated. Reports of retaliation should be made immediately so that they can be acted upon as quickly and completely as possible.

G. False Reporting

Given that a charge of sexual assault or harassment may have severe consequences, the Colleges take very seriously the validity of information provided in support of an allegation of sexual misconduct.
A Complainant who makes a report that is later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action, up to and including expulsion. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation.

Similarly, a Respondent or witness who is later proven to have intentionally given false information during the course of an investigation, the HWS complaint resolution process, or external judicial action may be subject to disciplinary action.

**H. Reports Involving Minors**

For information regarding reports involving minors (a person under the age of 18/17 years old or younger) see Appendix B.

**IX. INTERIM MEASURES AND ACCOMMODATIONS THAT CAN BE IMPLEMENTED PENDING OUTCOME OF SEXUAL MISCONDUCT COMPLAINTS**

**A. Overview**

Upon receipt of a report of sex discrimination or harassment, sexual harassment, sexual violence, stalking, intimate partner violence, or sex- or gender-based harassment that does not involve conduct of a sexual nature, the Colleges will impose reasonable and appropriate interim measures designed to eliminate the reported hostile environment and protect the parties involved. The Colleges will maintain consistent contact with the parties to ensure that all safety and emotional and physical well-being concerns are being addressed. Interim measures may be imposed at any time regardless of whether formal disciplinary action is sought by the Complainant or the Colleges and may be imposed prior to the commencement or conclusion of an investigation. Interim measures will be kept confidential, to the extent that maintaining the confidentiality would not impair the ability of the college to provide the interim measures.

A Complainant or Respondent may request separation or other protection, or the Colleges may choose to impose interim measures at their discretion to ensure the safety of all parties, the broader Colleges’ community, and/or the integrity of the investigative and/or complaint resolution process.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure. The Colleges will take immediate and responsive action to enforce a previously implemented measure.

**B. Range of Measures**

The Colleges, at their discretion, will implement interim measures with potential remedies that may be applied to the Complainant and/or the Respondent, including:

- access to counseling services on- and off-campus and assistance in setting up an initial appointment, on- and off- campus;
• imposition of an on-campus “no contact” directive or order;
  o Note that the Colleges issues no-contact orders in connection with all incidents where there is a named perpetrator or Respondent. No-contact orders prohibit parties from contacting one another and from contacting third-parties in an attempt to communicate with the other party. In the event both parties are in the same location/area, the person who arrived first may remain but the person who arrived second must leave. As applicable, possible contact related to academic courses are addressed separately in no-contact orders.

• rescheduling of exams and assignments;
• providing alternative course completion options;
• changing class schedules, including the ability to transfer course sections or withdrawal from a course without penalty;
• changing work schedules or job assignments;
• changing a student’s Colleges’-owned housing;
• assistance from Colleges’ support staff in completing housing relocation;
• limiting an individual’s or organization’s access to certain Colleges’ facilities or activities pending resolution of the matter;
• voluntary leave of absence;
• providing an escort to ensure safe movement between classes and activities;
• providing medical services;
• providing academic support services, such as tutoring;
• Colleges’-imposed leave or separation; and/or
• any other remedy that can be tailored to the involved individuals to achieve the goals of this Policy.

The applicable academic department chair will be included in discussions related to interim measures arising out of any course content complaints.

C. Colleges’ Imposed Interim Suspension or Leave

If the Vice President for Student Affairs, in consultation with the Director of Campus Safety, decides at any point that the well-being of a student or of any member of the Colleges’ community is at stake, an interim suspension may be imposed on a student who is suspected of violating this Policy, any rules, regulations or procedures of the Colleges or otherwise poses a risk of safety to the campus, until the time the complaint resolution process, disciplinary action, or a hearing can be completed. This action assumes no determination of guilt and the hearing will be held as soon as possible.

Similarly, the Colleges may impose leave on any employee.
The terms of all such leaves shall be determined in the Colleges’ sole discretion.

X. SUMMARY OF TITLE IX REVIEW, INVESTIGATION, AND RESOLUTION ALTERNATIVES

Although a report may come in through many sources, the Colleges are committed to ensuring that all reports of sexual assault or harassment are referred to the Title IX Coordinator, which ensures consistent application of the Interim Sexual Misconduct Policy to all individuals and allows the Colleges to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and eliminate its effects. The Title IX Coordinator and the Title IX Team oversee the resolution of the reported misconduct through the Colleges’ complaint processes.

Everyone who participates in the HWS Title IX review, investigation, and resolution processes receives annual training on: (1) issues related to dating violence, domestic violence, sexual assault, and stalking; (2) how to conduct an investigation to protect the safety of victims and to promote accountability; and (3) the Colleges’ policies, procedures, resources, and supports.

A. Overview of Procedural Options

Upon receipt of a sexual misconduct report, the Colleges’ Title IX Team will conduct an initial Title IX assessment. The goal of this assessment is to provide an integrated and coordinated response to reports of sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence, and sex- or gender-based harassment that does not involve conduct of a sexual nature. The assessment will consider the nature of the report, the safety of the individual and of the campus community, and the Complainant’s expressed preference for resolution.

Following this assessment, the Colleges may:

• seek a remedies-based response that does not involve disciplinary action against a Respondent; OR

• refer the matter for investigation. The goal of the investigation is to gather all relevant facts and determine if there is sufficient information to refer the report for disciplinary action using the Colleges’ hearing procedures described below.

The process followed will be determined by the relationship of the Respondent to the Colleges:

• Complaints against a student will be addressed under the procedures for resolution of complaints against students, which is set forth in the Procedures for Resolution of Complaints Against Students section of this Policy.

• Complaints against a staff member will be addressed under the Colleges’ Harassment and Non-discrimination Policy set forth in the Employee Handbook.
• Complaints against a member of the faculty will be addressed under the Colleges’ policy governing instructional staff and related grievance procedures, which can be found in the Faculty Handbook.

Each process is guided by the same principles of fairness and respect for all parties. Resources are available for both students and employees, whether as Complainants or Respondents, to provide support and guidance throughout the investigation and resolution of the complaint.

B. Role of the Title IX Coordinator

Title IX Coordinator Susan Lee oversees the Colleges’ centralized review, investigation, and resolution of reports of sexual assault and harassment. The Coordinator also coordinates the Colleges’ compliance with Title IX. The Title IX Coordinator is:

• responsible for oversight of the investigation and resolution of all reports of sexual assault and harassment;
• knowledgeable and trained in relevant state and federal laws and Colleges’ policy and procedure;
• trained in sexual assault response;
• available to provide information to any individual, including a complainant, a respondent, or a third party, about the courses of action available at the Colleges, both informally and formally, and the courses of action available externally, including reports to law enforcement;
• available to provide assistance to any Colleges’ community member regarding how to respond appropriately to reports of sexual assault and harassment;
• responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures; and
• responsible for compiling required reports.

C. Time Frames for Addressing Reports Made Under this Policy

The Colleges seek to conclude all reports of sexual misconduct within sixty (60) days (exclusive of any appeal) and, in general, a Complainant and Respondent can expect that the process will proceed according to the time frames provided in this Policy. However, because circumstances may arise that require the extension of time frames—possibly beyond the overall sixty (60) day timeline—all time frames expressed in this Policy are meant to be guidelines rather than rigid requirements. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening school break or vacation or other unforeseen circumstances. The Colleges will provide written notice to all parties of the reason for the delay and the expected adjustment in time frames. The Colleges will make their best efforts to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.
At the request of law enforcement, the Colleges may agree to defer their fact-gathering until after the initial stages of a criminal investigation. The Colleges will nevertheless communicate with the Complainant regarding Title IX rights, procedural options, and the implementation of interim measures to ensure safety and well-being. The Colleges will promptly resume its fact-gathering as soon as law enforcement has completed their initial investigation.

D. Initial Title IX Review and Assessment

1. Risk of Harm

In every report of sex discrimination and harassment, sexual harassment, sexual violence, stalking, intimate partner violence or sex- or gender-based harassment that does not involve conduct of a sexual nature, the Title IX Coordinator, along with the Title IX Team, will make an immediate assessment of any risk of harm to individuals or to the campus community and will take steps necessary to address those risks. These steps may include interim protective measures to provide for the safety of the individual and the campus community. As necessary, one or more additional campus officials may also be included in the initial assessment.

The initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, the investigation may continue depending on a variety of factors, such as the Complainant’s wish to pursue disciplinary action, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation.

2. Appropriateness of Disciplinary Action or Hearing Process

Where the Title IX assessment concludes that the Colleges’ hearing process or disciplinary action may be appropriate, the Colleges will initiate an investigation.

E. Investigation

The Colleges must conduct an investigation whether or not a Complainant decides to make a report to law enforcement. In the event that a Complainant makes a report to law enforcement, the Colleges must continue their independent investigation while law enforcement’s investigation proceeds. However, the Colleges and law enforcement will coordinate their investigations, including sharing information to the extent it is prudent and feasible. The Colleges’ investigation is designed to provide a fair and reliable gathering of the facts.

The Colleges may designate an investigator (or investigators) of their choosing, provided the investigator has specific training and experience investigating allegations of sexual misconduct. The Colleges will provide annual training for all investigators, and any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest. The investigator may be an employee of the College, an external investigator engaged to assist the Colleges in their fact-gathering or a team of investigators that pairs an external investigator with a Colleges’ employee related to the roles of the parties on campus (student, staff, or faculty). The Title IX Coordinator will determine who serves as the investigator for a particular case.
The investigator will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the Complainant, the Respondent, and any witnesses. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The investigator(s) will decide which individuals to interview; however, as part of the investigation, the Colleges will provide an opportunity for the parties to suggest witnesses and present other evidence. The investigation will be conducted with the goal of being thorough, impartial, and fair; all individuals will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns. To be clear, however, confidentiality cannot be promised during an investigation because, for example, it may be necessary for members of the Title IX Team to participate in discussions regarding accommodations and interim measures, and for the investigator to speak with witnesses.

The Colleges will seek to complete the investigation within thirty (30) business days of receiving the complaint, but this time frame may be extended depending on the complexity of the circumstances of each case. Even some complex cases, however, can be investigated within thirty (30) days or less.

At the conclusion of the investigation, the investigator will prepare a report setting forth the facts gathered. The Colleges will share the report with the Complainant and Respondent, and each party will have the opportunity to prepare and submit a written response. The investigator may find it necessary to follow up on information provided in a written response submitted by any party and supplement her or his prior report accordingly. All of these written submissions and all information gathered during the investigation will collectively be considered the investigative report.

Upon receipt of the investigative report, the Colleges will notify all parties that the investigation is complete and provide information about next steps in the process.

Information gathered during the investigation will be used to evaluate the responsibility of the Respondent, provide for the safety of the Complainant and the Colleges’ campus community, and impose (additional) remedies as deemed necessary to address the effects of the alleged conduct.

Based on the information gathered in the initial Title IX assessment and/or investigation, the Title IX Coordinator and appropriate members of the Title IX Team will take appropriate measures designed to end the misconduct, prevent its recurrence, and address its effects.

The Title IX Coordinator will document each report or request for assistance in resolving a case involving charges of sexual misconduct, whether by the Complainant, Respondent, a third party or anonymously, and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

**F. Remedies-based Resolution**

Remedies-based resolution does not involve disciplinary action against a respondent. Where the Title IX assessment concludes that a remedies-based resolution may be appropriate,
the Colleges, in consultation with the Complainant, will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant’s access to the educational and extracurricular activities of the Colleges. Examples of potential remedies for individuals are provided in Section IX: Interim Measures. Potential remedies for the community include targeted or broad-based educational programming or training.

In cases that do not involve sexual violence, mediation and other restorative justice programming may be an appropriate form of a remedies-based response. The Colleges will not compel a Complainant to engage in mediation, to directly confront the Respondent or to participate in any particular form of a remedies-based response. Mediation, even if voluntary, may not be used in cases involving sexual violence or assault.

The Colleges will make the decision to pursue a remedies-based response when the Colleges have sufficient information about the nature and scope of the conduct. The Colleges can reach this decision at any time. Participation in a remedies-based response is voluntary, and a Complainant can request to end a remedies-based response at any time.

At all times, the Colleges’ administrator or team working to address the report will stay in close contact with the Complainant regarding options and possible remedies.

G. Complaint Resolution Process

Disciplinary action against a Respondent may only be taken following the completion of a complaint resolution process. Because the relationship of students, staff, and faculty to the Colleges differ in nature, the procedures that apply when seeking disciplinary action necessarily differ as well. Each of the procedures, however, is guided by the same principles of fundamental fairness and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report under this Interim Sexual Misconduct Policy.

The Procedures for Resolution of Complaints Against Students are provided as part of this Policy. Complaints against a staff member will be addressed under the Colleges’ Harassment and Non-discrimination Policy set forth in the Employee Handbook. Complaints against a member of the faculty will be addressed under the Colleges’ policy governing instructional staff and related grievance procedures, which can be found in the Faculty Handbook.
XI. PROCEDURES FOR RESOLUTION OF COMPLAINTS AGAINST STUDENTS

As outlined in the Reporting section of this Policy, an individual who wishes to make a report of sex discrimination or harassment, sexual harassment, sexual violence, stalking, intimate partner violence, or sex- or gender-based harassment that does not involve conduct of a sexual nature is encouraged to make a report directly to the Title IX Coordinator or any member of the Title IX Team. The Colleges will respond to every report through the coordinated efforts of the Title IX Team, which will conduct an initial Title IX assessment. At the conclusion of the Title IX assessment, the report will be referred for remedies-based response or investigation to determine if there is sufficient information to proceed with the complaint resolution process. The Complaint Resolution Process is a sanctions-based approach that may involve discipline up to and including expulsion, as described in Section XII. Remedies-based response does not involve disciplinary action against a respondent, as described in XI(B) below.

A. Title IX Assessment

Upon receipt of a report, the Colleges, through the coordinated efforts of the Title IX Team, will conduct an initial Title IX assessment. The first step of the assessment will usually be a preliminary meeting between the Complainant and Title IX Coordinator or a member of the Title IX Team. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the report; it is not intended to be a full forensic interview. At this meeting, the Title IX Coordinator and the Complainant will discuss resources, procedural options, and interim measures.

This initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, an investigation may continue depending on a variety of factors, such as the Complainant’s wish to pursue disciplinary action, the risk posed to any individual or the campus community by not proceeding, and the nature of the allegation. The need for interim measures to protect or support the parties to the process and any involved third parties will be evaluated on an ongoing basis.

In the course of this assessment, the Colleges will consider the interest of the Complainant and the Complainant’s expressed preference for the manner of resolution. Where possible and as warranted by an assessment of the facts and circumstances, the Colleges will seek action consistent with the Complainant’s request.

As part of the initial assessment of the facts, the Title IX Team will:

- assess the nature and circumstances of the allegation;
- address immediate physical safety and emotional well-being of the complainant;
- notify the complainant of the right to contact law enforcement and seek medical treatment;
- notify the complainant of the importance of preservation of evidence;
- enter the report into the Colleges’ daily crime log;
• assess the reported conduct for the need for a timely warning under the Clery Act;
• provide the complainant with information about on- and off-campus resources;
• notify the complainant of the range of interim accommodations and responses;
• provide the complainant with an explanation of the procedural options, including remedies-based responses and the complaint resolution process;
• assess for pattern evidence or other similar conduct by Respondent;
• discuss the Complainant’s expressed preference for the manner of resolution and any barriers to proceeding; and
• explain the Colleges’ policy prohibiting retaliation.

Where a Complainant requests that a name or other identifiable information not be shared with the Respondent or that no formal action be taken, the Colleges will balance this request with its dual obligations to provide a safe and non-discriminatory environment for all Colleges’ community members and to afford a Respondent fundamental fairness by providing notice and an opportunity to respond before action is taken against a Respondent.

In the event that a Complainant does not wish to proceed with an investigation or the complaint resolution process, the Title IX Coordinator, in consultation with the Title IX Team, will determine, based on the available information, including any investigative report, whether the investigation or complaint resolution process should nonetheless go forward. In making this determination, the Colleges will consider, among other factors, whether the Complainant has requested confidentiality; whether the Complainant wants to participate in an investigation or hearing; the severity and impact of the sexual misconduct; the respective ages of the parties; whether the Complainant is under the age of 18; whether the Respondent has admitted to the sexual assault or harassment; whether the Respondent has a pattern of committing sexual misconduct; the existence of independent evidence; and the extent of prior remedial methods taken with the Respondent.

The Colleges will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Complainant. The Colleges will assess any barriers to proceeding, including retaliation, and will inform the Complainant that Title IX prohibits retaliation and the Colleges will take strong responsive action to protect the Complainant. Where the Colleges are unable to take action consistent with the request of the Complainant, a member of the Title IX Team will communicate with the complainant about the Colleges’ chosen course of action.

At the conclusion of the Title IX assessment, the Title IX Team will determine the appropriate manner of resolution and, if appropriate, refer the report for a remedies-based response or investigation to determine if there is sufficient information to invoke the complaint resolution process.
The determination as to how to proceed will be communicated to the Complainant in writing. Depending on the circumstances and requested resolution, the Respondent may or may not be notified of the report or resolution. A Respondent will be notified when the Colleges seek action that would impact a Respondent, such as protective measures that restrict the Respondent’s movement on campus, the initiation of an investigation, or the decision to involve the Respondent in a remedies-based response.

Even if the complaint resolution process is not pursued, the Colleges will have the discretion to require the Respondent to participate in remedial measures that ensure sufficient education and counseling related to the Colleges’ policies.

**B. Remedies-based Responses**

A remedies-based response is a non-hearing approach designed to eliminate a hostile environment without taking disciplinary action against a Respondent. Where the Title IX assessment concludes that a remedies-based response may be appropriate, the Colleges, in consultation with the Complainant, will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant’s access to the educational and extracurricular activities at the Colleges.

Examples of potential remedies for individuals are provided in the interim measures section of this Policy, Section IX. Potential remedies for the community include targeted or broad-based educational programming or training, direct communication with the Respondent by the Complainant, communication with the Respondent by the Title IX Coordinator or a Colleges’ administrator, or other forms of restorative justice. Depending on the form of the remedies-based response used, it may be possible for a Complainant to maintain anonymity.

The Colleges will not compel a Complainant to engage in mediation, to directly communicate with the Respondent, or to participate in any particular form of a remedies-based response. Mediation, even if voluntary, will not be used in cases involving sexual violence or assault.

The decision to pursue a remedies-based response, which may occur at any time, will be made when the Colleges have sufficient information about the nature and scope of the conduct. Participation in remedies-based response is voluntary, and a Complainant can request to end remedies-based response at any time. At all times, the Colleges’ administrator or team working to address the report will stay in close contact with the Complainant regarding options and possible remedies.

The Title IX Coordinator will maintain records of all reports and conduct referred for a remedies-based response. Because remedies-based responses are tailored to each situation and can be implemented while a complaint is pending, they may be implemented at any time during the process.
C. Investigation

The Colleges will initiate an investigation when the Title IX Team determines that an investigation is necessary. The Colleges may designate an investigator or investigators of its choosing, provided that the investigator has specific training and experience investigating allegations of sexual misconduct. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest. The Colleges may choose to engage an external investigator at their discretion, either to work independently or in conjunction with an internal Colleges’ employee.

The investigator will conduct the investigation in a manner appropriate to the circumstances of the case. The investigator will coordinate the gathering of information from the Complainant, the Respondent, and any other individuals who may have information relevant to the determination. The investigator will also gather any available physical or medical evidence, including documents, communications between the parties, and other electronic records as appropriate. The investigator may consider prior allegations of, or findings of responsibility for, similar conduct by the Respondent. The Complainant and Respondent will have an equal opportunity to be heard, to submit evidence, and to identify witnesses who may have relevant information.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. As described in the privacy section of this Policy (see Section IV), the investigation will be conducted in a manner that is respectful of individual privacy concerns. To be clear, however, confidentiality cannot be promised during an investigation because, for example, it may be necessary for members of the Title IX Team to participate in discussions regarding accommodations and interim measures, and for the investigator to speak with witnesses.

The investigation will usually be completed within thirty (30) business days of receiving the complaint, but this time frame may be extended depending on the complexity of the circumstances of each case. The investigator will prepare a report setting forth the facts gathered. The report will be factual in nature and will not make a finding of responsibility or an assessment of credibility. The Colleges will share the investigator’s report with the Complainant and Respondent, and each party will have the opportunity to prepare and submit a written response. The investigator may follow up on information provided in a written response submitted by any party and supplement her or his prior report accordingly. All of these written submissions and all information gathered by the investigator will collectively be considered the investigative report.

D. Determination of Next Steps Following an Investigation

Following the investigation, the Title IX Team will review the investigative report to determine whether the allegations, if proven, would result in a decision-maker finding a violation of this Policy. If the Title IX Team determines that this standard has been met, the Colleges will issue a notice of charge to begin the complaint resolution process.
If the Title IX Team determines that this standard has not been met, the Colleges will notify the Complainant and Respondent in writing. The Complainant may seek review of this decision by filing a written request for review with the Title IX Coordinator within five (5) business days. The Title IX Coordinator will present the request to a panel of three (3) faculty members (to be elected to this role by the faculty). The panel will review the request with the assistance of the Title IX Coordinator, but the Title IX Coordinator will not participate in the decision. The faculty panel may affirm the threshold finding of the Title IX Team, reverse the finding of the Title IX Team, or recommend that the investigator conduct additional investigation. The faculty panel will render a decision in writing, to both parties, within five (5) business days of receipt of the request for review. The decision of the faculty panel is final.

XII. THE COMPLAINT RESOLUTION PROCESS

Complaints made under this Interim Sexual Misconduct Policy will be addressed by an administrative hearing, a Sexual Misconduct hearing panel, or an external adjudicator.

A. Administrative Hearing

A complaint under this Policy will typically be addressed through a hearing conducted by a Sexual Misconduct hearing panel. A Complainant or Respondent, however, may request an administrative hearing, in which the Vice President for Human Resources (or designee) will meet with the Complainant and Respondent to determine responsibility and render a decision as to what sanctions, if applicable, will be implemented. Both parties must agree to an administrative hearing. The investigative report will serve as the primary evidence in making a determination of responsibility. Both parties must have notice, the opportunity to review the investigative report in advance, and the opportunity to present relevant information to the Vice President for Human Resources (or designee).

An administrative hearing is particularly appropriate when the Respondent has admitted to the misconduct and there is no discernible dispute in the relevant facts of the investigative report; however, at the discretion of the Vice President for Human Resources (or designee), it may also be used when the facts are in dispute. In reaching a determination as to whether this Policy has been violated, the Vice President for Human Resources (or designee) will reach a determination by a preponderance of the evidence—that is, whether the alleged conduct is more likely than not to have occurred. Depending upon the nature and severity of the allegations, the Vice President for Human Resources (or designee) may decline to handle the matter administratively and refer the case to a hearing panel at any time.

B. Sexual Misconduct Hearing Panel

A Sexual Misconduct hearing panel (which will be referred to here as hearing panel) is a fact-finding board comprised of external panelists (not employed by the Colleges), trained about non-discrimination; the dynamics of sexual harassment, sexual violence, and intimate partner violence; the factors relevant to a determination of credibility; the appropriate manner in which to receive and evaluate sensitive information; the manner of deliberation; evaluation of consent and incapacitation; the application of the preponderance of the evidence standard (as required by
the U.S. Department of Education’s Office for Civil Rights); sanctioning; and the Colleges’
policies and procedures. During the interim phase of this Policy, the Colleges have determined
that using an external panel will best serve the fair and equitable resolution of each complaint.
Each hearing panel will typically be comprised of three panelists. The panel size may be altered
based upon the nature of the allegations, the complexity of the case, whether there is any issue of
conflict of interest, the availability of three panel members for the hearing, the parties’ requests,
or any other factors necessitating a different panel size.

1. Process Support for the Hearing Panel

The hearing panel is supported by a Process Adviser, who serves as the convener and the
observer. The Vice President for Student Affairs designates who will fill the Process Adviser
role; it may be filled by a member of the HWS staff or an individual external to the Colleges.
The Process Adviser will be knowledgeable in the Colleges’ policies and procedures, definitions,
the preponderance of evidence standard, and the decision-making process. The Process Adviser
has no decision-making role and is not present for deliberations but is available to answer
process-related questions during deliberations.

2. Process Support for the Parties

The Title IX Coordinator will also be present during the hearing to serve as a resource for
the parties on issues of policy and procedure, and to see that policy and procedure are
appropriately followed throughout the hearing. The Title IX Coordinator will meet with all
involved parties, witnesses, and advisers prior to the hearing to ensure that their questions are
answered before the hearing.

C. External Decision-Maker

In certain circumstances, the Colleges will proceed with one external decision-maker. If
this alternative is selected, the external decision-maker will be a neutral party who is trained
about non-discrimination; the dynamics of sexual harassment, sexual violence, and intimate
partner violence; the factors relevant to a determination of credibility; the appropriate manner in
which to receive and evaluate sensitive information; the manner of deliberation; evaluation of
consent and incapacitation; the application of the preponderance of the evidence standard (as
required by the U.S. Department of Education’s Office for Civil Rights); sanctioning; and the
Colleges’ policies and procedures. The external decision-maker is supported by the Process
Adviser. The Title IX Coordinator will meet with all involved parties, witnesses, and advisers
prior to the hearing, be present during the hearing to serve as a resource for the external decision-
maker on issues of policy and procedure, and to see that policy and procedure are appropriately
followed throughout the hearing.

If the external decision-maker determines by a preponderance of the evidence that the
Respondent has violated the Interim Sexual Misconduct Policy, the Title IX Team and the
external decision-maker will determine the appropriate sanction.
D. Pre-Hearing Resolution Procedures

1. Initiation of Charges

The Colleges are responsible for investigating allegations of sexual misconduct, determining whether the allegations, if proven, would result in a decision-maker finding a violation of this Policy, and initiating charges. If the Title IX Team makes the threshold determination that the complaint should be addressed through a hearing, the Title IX Coordinator will issue a letter to both parties requesting a pre-hearing meeting.

The Complainant is not required to write a complaint in preparation for the hearing. Both the Complainant and the Respondent will be given notice of the specific charges and the opportunity to be heard before a final determination is reached.

2. Group Infractions

When members of a student group, organization, team, or individuals act collusively to operate in concert in violation of the Interim Sexual Misconduct Policy, they may be charged as a group or as individuals, and a hearing may proceed against the group as joint respondents or against one or more involved individuals, or both, as appropriate given available information and the circumstances.

3. Advisers

In any hearing, each party has the right to be assisted by an adviser of their choice. An adviser is any individual who provides the Complainant or Respondent with support, guidance, or advice. The adviser may accompany the student to the hearing and any related meeting with a Colleges’ employee. Requests to be accompanied by an adviser must be submitted in writing to the Title IX Coordinator at least five (5) days prior to the hearing date. Exceptions to this timeline will only be made when there are extenuating circumstances preventing the name of the adviser to be submitted in timely fashion.

Every individual proposed to serve as an adviser must meet with the Title IX Coordinator in advance of attending any interviews, meetings, and hearings. The adviser may not address the panel, except to ask for a short recess if one of the parties requires some time outside of the hearing room (e.g., to compose oneself, to collect one’s thoughts, or to confer). Advisers may speak privately to their advisee during the proceeding. The panel chair, the external decision-maker, the Process Adviser, and/or the Title IX Coordinator have the right to determine what constitutes appropriate behavior on the part of an adviser and whether the person may remain at the proceedings. While the adviser may be present to hear testimony, the Colleges will not share written material with an adviser.

When warranted by extenuating circumstances, witnesses and others involved in an investigation or hearing may have an adviser during the hearing process.
4. **Pre-Hearing Meeting with Complainant and Respondent; Witnesses**

When a hearing is deemed necessary based on the review of the investigative report, the Title IX Coordinator will contact the Complainant and Respondent to schedule separate meetings with each party. At this pre-hearing meeting, each party will receive an explanation of the hearing process and have the opportunity to ask any questions before the hearing occurs. If the Complainant and/or Respondent have elected to have advisers throughout the hearing process, the adviser is encouraged to be present at this initial meeting.

If requested, the Title IX Coordinator will meet with any witnesses prior to their meeting with the hearing panel to explain the hearing process and to answer any questions they may have.

5. **Notice of Hearing**

Once each party has met with the Title IX Coordinator, a notice of hearing is sent to the Complainant and the Respondent. The notice of hearing provides each party with a statement of the Policy violation(s) that are alleged to have taken place and a summary of the facts underlying the allegations. In addition, the notice provides the parties with the designated manner of resolution (administrative hearing, panel hearing, or external adjudicator), the name of the individual(s) hearing the matter, and the date, time, and place of the hearing. The parties should share this notice with their advisers, if applicable.

In general, the hearing will be scheduled approximately fifteen (15) business days after the notice of hearing is sent. Under extenuating circumstances, this time frame may be extended.

6. **Composition of the Hearing Panel; Challenges to the Composition**

Each party has the right to request that the Title IX Coordinator remove a member of the hearing panel or to contest the external decision-maker on reasonable and articulable grounds of bias, conflict of interest, or an inability to be fair and impartial. This challenge must be raised in writing or in person within four (4) business days of receipt of the notice of hearing. If an objection is raised in person, the Title IX Coordinator will make a written record of the objection. All objections must be raised prior to the commencement of the hearing. The Title IX Coordinator will determine whether to remove the panelist or seek an alternative external decision-maker.

7. **Pre-Hearing Review of Documents**

The Complainant and the Respondent will each have the opportunity to review all investigative documents, subject to the privacy limitations imposed by federal law, at least five (5) business days prior to the hearing. The investigative documents will include the investigative report, any witness statements, and any other documentary information that will be presented at the hearing.
8. Witnesses

The hearing panel or the external decision-maker will have discretion to determine who will be called as witnesses. The hearing panel or external decision-maker will make this decision based upon the following:

• review of the investigative report
• meetings with the parties
• review of the list of desired witnesses submitted by each party

Following this review, the hearing panel or external decision-maker will determine which individuals have observed the acts in question or have information relevant to the incident. Witnesses who will speak solely about a party or witness’s character will not be asked to provide information to the hearing panel or external decision-maker.

The Complainant and Respondent will be provided with a list of witnesses and any relevant documents related to their appearance at the hearing no later than five (5) business days before the hearing. All parties have the opportunity to hear the information provided by witnesses and pose questions of witnesses (but only through the hearing panel or the external decision-maker). The hearing panel or external decision-maker determines what questions will be posed; this determination will be based on whether the questions are likely to reveal relevant information.

To the extent witnesses express a need for some type of support services related to or as a result of their participation in a hearing pursuant to this Interim Policy, the Colleges will provide needed support services and accommodations.

9. Relevance

The Title IX Team will review the investigative report, any witness statements, and any other documentary evidence to determine whether the information contained therein is relevant and material to the determination of responsibility given the nature of the allegation. In general, the Title IX Team may redact information that is irrelevant, more prejudicial than probative, an unwarranted invasion of privacy, or immaterial. The Title IX Team may also redact statements of personal opinion rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

10. Prior Sexual History and/or Pattern Evidence

Prior sexual history of a Complainant. In general, a Complainant’s prior sexual history is not relevant and will not be permitted to be discussed at a hearing. Where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections
of the Interim Sexual Misconduct Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.

**Pattern evidence by a Respondent.** Where there is evidence of a pattern or conduct similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility (see (a) below), this information may be deemed relevant and probative to the hearing panel or external decision-maker’s determination of responsibility and/or assigning of a sanction. The determination of relevance will be based on an assessment of whether the previous incident (a) can be established (in the event there was no prior finding of responsibility), (b) was substantially similar to the present allegation or information, and (c) indicates a pattern of behavior and substantial conformity with that pattern by the Respondent. Where there is a prior finding of responsibility for a similar act of sexual misconduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and/or assigning of a sanction.

**Notice that information will be brought forward.** Any party seeking to introduce information about prior sexual history or pattern evidence should bring this information to the attention of the investigator at the earliest opportunity. The Colleges, through the hearing panel (or through the external decision-maker), may choose to introduce this information, with appropriate notice to the parties. A party who has provided this information to the investigator may submit a written request to the student conduct administrator seeking its admission at the hearing. If this information was not previously submitted, the Colleges will refer the new information to the investigator, which may cause the scheduling of the hearing to be delayed.

Where a sufficient informational foundation exists, the Title IX Coordinator and appropriate members of the Title IX Team will assess the relevance, form, and reliability of the information and determine if it is appropriate for inclusion at the hearing.

To aid in an advance determination of relevance, the following must be submitted to the Title IX Coordinator via email or in hardcopy format no later than five (5) business days after the notice of the charge has been made:

- a written statement and/or description of the proposed information, if not already provided during the investigation;
- a summary of the relevance of this information to making a decision of responsibility at the hearing; and
- if not provided during the investigation, a brief explanation why this information was not shared with the investigator.

If this information is approved as appropriate for presentation at the hearing, the Respondent and Complainant will be provided with a brief description of the approved information no later than five (5) business days before the hearing.
11. Request to Reschedule Hearing

Either party can request to have a hearing rescheduled. Absent extenuating circumstances, requests to reschedule must be submitted to the Title IX Coordinator at least three (3) business days prior to the hearing. A request to reschedule a hearing must be supported by a compelling reason for the delay. The Title IX Coordinator may also reschedule the hearing, without a request by the parties, when there is reasonable cause to do so.

12. Consolidation of Hearings

The Title IX Coordinator has the discretion to consolidate multiple reports against a Respondent in one hearing if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident.

E. Hearing Procedures (for Hearing Panel or External Decision-Maker)

1. Attendance at Hearing

A hearing is intended to provide a full and fair opportunity for the Complainant and Respondent to present their account of events and for the panelists to determine the facts of the case, make a determination regarding the alleged violations of Colleges’ policy, and to recommend appropriate sanctions, if necessary.

A Complainant or Respondent may request participation by other suitable means that would not require physical proximity to the other party. This can include, but is not limited to, partitioning a hearing room or using technology, such as Skype or open telephone lines in multiple meeting rooms, to facilitate participation. Any proposed alternative must be reviewed in advance to ensure that it is consistent with the goals of a fair and equitable process.

The parties will be provided with separate meeting rooms in which to meet with their advisers, as applicable, during breaks in the hearing.

If a party misses a hearing for any non-emergency or non-compelling reason, the hearing may be held in the individual’s absence at the discretion of the Title IX Coordinator and the panel chair or the external decision-maker.

2. Participants in Hearing Procedures

The hearing is closed, meaning it is not open to the public. The Complainant, the Respondent, and any individuals who are witnesses may appear before the hearing panel. Witnesses may only be present for their individual meeting with the hearing panel or external adjudicator. Advisers and the parties may be present throughout the proceeding (in person or via technology).
3. **Safeguarding of Privacy**

All parties involved in a hearing are required to keep private all information learned in preparation for the hearing and at the hearing. Consistent with the Family Educational Rights and Privacy Act (FERPA) regulations, the parties, panel members, advisers, and external decision-makers may not share any copies of documents. All copies of documents provided must be returned to the Colleges at the conclusion of the hearing and any appeals, and parties must certify that they have not kept a hard copy or electronic copy. Any violation of this obligation is subject to disciplinary action by the Colleges pursuant to the Community Standards disciplinary process.

4. **Hearing Procedures**

The hearing panel/external decision-maker will review all information pertinent to the incident in question prior to the hearing. The investigative report will be made available for the external decision-maker/panel members to review at least five (5) business days prior to the hearing. Other relevant information supporting the violation(s) alleged may be offered in the form of written statements, documents, items, or oral information from the Complainant, the Respondent, and witnesses.

A hearing will be called to order by the panel chair or the external decision-maker, who will explain the hearing process and will provide an opportunity for all parties to ask procedural questions prior to initial statements and the presentation of information. The panel chair will provide a brief opening statement summarizing the investigation. The opening statement should focus on the areas of agreement and disagreement in order to assist the panelists in prioritizing areas of inquiry.

The Complainant may make a brief statement. The external decision-maker/hearing panel may pose questions to the Complainant. The Respondent is encouraged to compile a written list of questions to pose to the Complainant. The list will be provided to the external decision-maker/hearing panel, who will determine the relevance of the questions and will ask the Complainant those questions deemed relevant and appropriate.

After the Complainant is finished, the Respondent may make a brief statement. The external decision-maker/hearing panel may pose questions to the Respondent. The Complainant is encouraged to compile a written list of questions to pose to the Respondent. The list will be provided to the external decision-maker/hearing panel, who will determine the relevance of the questions and will ask the Respondent those questions deemed relevant and appropriate.

The external decision-maker/hearing panel will then meet with witnesses. Each witness will be permitted to give a brief statement but need not do so. The external decision-maker/hearing panel will question each witness. The Complainant or Respondent may present a list of written questions to be posed to the witness to the external decision-maker/hearing panel, who will determine the relevance of the questions and will pose any questions deemed relevant.

At the conclusion of the presentation of all witnesses, the Complainant and Respondent will each be given the opportunity to give a brief closing statement.
5. **Questioning of Witnesses**

It is the responsibility of the external decision-maker/hearing panel to ensure that the information necessary to make an informed decision is presented. The external decision-maker/panel members may play an active role in questioning both parties and witnesses involved in the case. At times, the external decision-maker/panel members may need to ask difficult or sensitive questions in order to understand areas of factual dispute or gain a full understanding of the context.

At no time will the Complainant or the Respondent be permitted to directly question one another. As outlined above, the parties may submit questions to the external decision-maker/hearing panel in writing, which may be posed at the discretion of the external decision-maker/hearing panel. Similarly, the external decision-maker/panel members are under no obligation to allow either party to directly question witnesses, and the external decision-maker/panel may require that questions to witnesses be submitted in writing.

Parties and other individuals who offer information at a hearing are expected to respond honestly and to the best of their knowledge. The external decision-maker/hearing panel reserves the right to recall any party or witness for further questions and to seek additional information necessary to make a decision. A Complainant, Respondent, or witness who intentionally provides false or misleading information may be subject to discipline under this Policy.

6. **Deliberation**

After all of the information has been presented, all parties will be dismissed from the hearing room so that the external decision-maker/hearing panel may deliberate in private. The Process Adviser and Title IX Coordinator do not remain for deliberations but are available for questions. In the case of an external decision-maker, the external decision-maker will make a decision. In the case of a panel, the hearing panel will first try to reach a determination by consensus, but a simple majority vote as to responsibility will suffice in the event consensus cannot be reached. Only the decision on responsibility will be shared with the Complainant and the Respondent. The vote itself shall not be shared with the parties.

The findings of the external decision-maker/hearing panel will be reduced to writing by the external decision-maker or hearing panel. The findings will detail the findings of fact and determination of responsibility, making reference to the information that led to the finding.

7. **Preponderance of the Evidence Standard**

The external decision-maker/hearing panel will determine a Respondent’s responsibility by a preponderance of the evidence. This means that the external decision-maker/hearing panel will decide whether it is “more likely than not” based upon the information provided at the hearing that the Respondent is responsible for the alleged violation(s). This standard is required by the U.S. Department of Education’s Office for Civil Rights.
8. Sanctions

The Complainant and Respondent will each have the opportunity to present a written statement about the impact of the violation for the external decision-maker/hearing panel to consider when determining sanctions. The external decision-maker/hearing panel will review these statements only if the external decision-maker/hearing panel finds the Respondent responsible for one or more violations.

A hearing panel that finds a student, group, or organization responsible for a violation of this Interim Sexual Misconduct Policy will determine the appropriate sanction(s). The hearing panel will make this determination of sanctions in consultation with the Title IX Team.

In the event that an external decision-maker finds a student, group, or organization responsible for a violation of the Interim Sexual Misconduct Policy, the Title IX Team, in consultation with the external decision-maker, will determine the appropriate sanction(s).

Set forth below is a full list of the range of sanctions:

- Probation
- Conduct warning
- Suspension
- Expulsion/permanent separation
- Organizational sanctions including probation and rescinding recognition

It is important to understand that a violation of this Policy may result in suspension or expulsion from the Colleges. In general:

- Any student who is determined to have committed sexual assault (involving sexual intercourse) will be expelled.
- Any student who is determined to have committed sexual assault (involving sexual contact) will receive a sanction ranging from conduct warning to expulsion.
- Any student who is determined to have engaged in any other prohibited form of conduct will receive a sanction ranging from conduct warning to expulsion.
- When any group (student group, student organization or team) is determined to have acted in violation of this Policy, the group will receive a sanction ranging from probation to loss of recognition or status.

The hearing panel (or the Title IX Team when an external decision-maker is used) may broaden or lessen any range of recommended sanctions based on circumstances warranting a less severe sanction (mitigating circumstances) or circumstances warranting a more severe sanction (aggravating circumstances). The hearing panel (or Title IX Team and external decision-maker) will not deviate from the range of recommended outcomes unless compelling justification exists to do so. A single sanction or a combination of sanctions may be issued.
In considering the appropriate sanction within the recommended outcomes, the hearing panel (or Title IX Team and external decision-maker) will consider the following factors:

• the Respondent’s prior discipline history;
• how the Colleges have sanctioned similar incidents in the past;
• the nature and violence of the conduct at issue;
• the impact of the conduct on the Complainant;
• the impact of the conduct on the Colleges’ community, its members or Colleges’ property;
• whether the Respondent has accepted responsibility;
• whether the Respondent is reasonably likely to engage in the conduct in the future;
• location of incident;
• whether the conduct reflects collusion with members of a student group;
• the need to deter similar conduct by others; and
• any other mitigating or aggravating circumstances, including the Colleges’ values.

Absent compelling justifications, if the Respondent has engaged in the same or similar conduct in the past, the sanction will be expulsion.

The hearing panel (or Title IX Team and external decision-maker) will also consider other remedial actions that may be taken to address any incident of discrimination or harassment and to prevent the recurrence of any discrimination, including: strategies to protect the Complainant and any witnesses from retaliation; provide counseling for the Complainant; other steps to address any impact on the Complainant, any witnesses, and the broader student body; and any other necessary steps reasonably calculated to prevent future occurrences of harassment.

9. Notice of Outcome

The panel chair (or external decision-maker) will orally communicate the findings of the hearing panel (or external decision-maker) to the Respondent and the Complainant separately and consecutively.

The notice will also be put in writing and will include: (1) any sanctions imposed by the Colleges (the Complainant will be informed of any sanctions that directly relate to the Complainant and, in sexual violence cases, of any sanction imposed whether or not the sanction is directly related to the Complainant); (2) the rationale for the result and the sanctions; and (3) notification of appeal options. Any change in the outcome that occurs prior to the time that the result becomes final will also be communicated simultaneously in writing. Generally, the result of the hearing will be final and communicated to the parties within five (5) business days from the date the hearing is concluded.
As applicable, the Respondent will also be informed of the date by which any conditions or requirements must be satisfied and the consequences of failure to satisfy the requirements.

The imposition of sanctions will take effect immediately and will not be stayed pending the resolution of the appeal.

Both parties will be advised of their right to appeal the determination of the external decision-maker/hearing panel.

10. Recording of Proceedings

The Colleges will not audio record the proceedings or deliberations, nor is any other individual permitted to record the proceedings.

11. Withdrawal Pending Outcome

If a Respondent chooses to withdraw from the Colleges for non-medical- or non-disability-related reasons prior to the conclusion of an investigation or the complaint resolution process described in this Policy, then the student must go through the re-entry process coordinated by the Dean’s Office. In such circumstances, the case must be heard prior to the student’s readmission to the Colleges except where the Title IX Team in its discretion finds exceptional circumstances.

F. Appeals

Either party may appeal the determination of responsibility or sanction(s) in writing to the Vice President of Student Affairs. The appeal must be filed within five (5) business days of receiving the written notice of outcome.

The Complainant and/or Respondent may appeal only the parts of the determination of responsibility or sanctions directly relating to them. Dissatisfaction with the outcome of the hearing is not grounds for appeal. The limited grounds for appeal are as follows:

1) previously unavailable relevant evidence that could significantly impact the finding of the hearing;
2) procedural error(s) that had a material impact on the fairness of the hearing; and
3) the sanctions imposed were substantially disproportionate to the violation committed.

The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. Upon receipt of an appeal, the Vice President for Student Affairs will notify both parties. Each party has an opportunity to respond in writing to the appeal. Any response to the appeal must be submitted within five (5) business days from receipt of the appeal.

The appeal will be conducted in an impartial manner by the Vice President for Student Affairs. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably
and appropriately. The appeal is not a new review of the underlying matter. The Vice President for Student Affairs shall consider the merits of an appeal only on the basis of the three (3) grounds for appeal stated above, supporting information provided in the written request for appeal, and the written record of the original hearing. The Vice President for Student Affairs can affirm the original findings, alter the findings, and/or alter the sanctions, depending on the basis of the requested appeal.

If the appeal is based on material deviation from the procedures established in the Interim Sexual Misconduct Policy, the Vice President for Student Affairs can ask that a new hearing occur before a newly constituted hearing panel.

In the case of new and relevant information, the Vice President for Student Affairs can recommend that the case be returned to the original hearing panel/external decision-maker to assess the weight and effect of the new information and render a determination after considering the new facts.

Absent extenuating circumstances, the Vice President for Student Affairs will communicate the result of the appeal to the Complainant and Respondent within ten (10) business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

G. Records

The Title IX Coordinator will retain records of all reports, allegations, and complaints, regardless of whether the matter is resolved by Title IX assessment, remedies-based response or the complaint resolution process. Complaints resolved by Title IX assessment or remedies-based response are not part of a student’s conduct file or academic record.

Affirmative findings of responsibility are part of a student’s conduct record. Such records shall be used in reviewing any further conduct or in developing sanctions and shall remain a part of a student’s conduct record.

The conduct files of students who have been suspended or expelled from the Colleges are maintained in the Office of Student Affairs for no fewer than seven years after their departure from the Colleges. Further questions about record retention should be directed to the Office of the Vice President for Student Affairs.

Medical schools, law schools, and some governmental agencies may require the Colleges to disclose disciplinary findings made against students. Students who transfer to other schools or participate in off-campus study programs may also be required to provide such information.

At the end of the academic year, the Title IX Coordinator, in collaboration with the Title IX Team, will produce and provide to the President a report of case dispositions. Because safety and a positive campus culture are a shared responsibility, every effort will be made to provide the report to the broader campus community. In so doing, the Colleges will be mindful of their privacy and confidentiality obligations under FERPA and any other applicable statutes.
Sources

- The Campus Sexual Violence Elimination Act of 2013 (Campus SaVE Act, 2013 VAWA Reauthorization Act)
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
- Violence Against Women Act (VAWA)
- Hobart and William Smith Colleges Sexual Misconduct Policy (January 2014)
- Occidental College Sexual Misconduct Policy\(^9\)
  [http://www.oxy.edu/sexual-assault-resources-support/policies-procedures](http://www.oxy.edu/sexual-assault-resources-support/policies-procedures)
- Policy and Programming Changes Pursuant to the Campus SaVE Provisions of the Violence Against Women Act, Office of General Counsel, State University of New York, July 2014
- Swarthmore College Sexual Assault and Harassment Policy\(^10\)
- Washington University at St. Louis Policy on Consensual Faculty-Student Relationships
- United States Department of Education Office for Civil Rights Questions and Answers on Title IX and Sexual Violence April 29, 2014
  [http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf](http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf)
- United States Department of Education Office for Civil Rights Dear Colleague Letter April 4, 2011
  [http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf)
- Not Alone: The First Report of the White House Task Force to Protect Students From Sexual Assault April 2014
  [http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf](http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf)
- Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties Title IX, January 19, 2001
  [http://www2.ed.gov/about/offices/list/ocr/docs/shguide.html](http://www2.ed.gov/about/offices/list/ocr/docs/shguide.html)

\(^9\) We gratefully acknowledge Occidental College with whose permission we have incorporated portions of the referenced policy into this Interim Sexual Misconduct Policy. We further acknowledge and appreciate the exceptional time and effort expended by Occidental community members in drafting their policy.

\(^10\) We gratefully acknowledge Swarthmore College with whose permission we have incorporated portions of the referenced policy into this Interim Sexual Misconduct Policy. We further acknowledge and appreciate the exceptional time and effort expended by Swarthmore community members in drafting their policy.
APPENDICES
Appendix A
New York Crime Definitions
Required to be distributed by The Violence Against Women Act (VAWA)

New York Crime Definitions

The Violence Against Women Act (VAWA) and its proposed regulations require the Colleges to include certain New York State definitions in their Annual Security Report and also require that these definitions be provided in other materials disseminated by the Colleges. The definitions required to be provided are set forth below.

CONSENT: Lack of consent results from: forcible compulsion; or incapacity to consent; or where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor’s conduct. Where the offense charged is rape in the third degree, a criminal sexual act in the third degree, or forcible compulsion in circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor’s situation would have understood such person’s words and acts as an expression of lack of consent to such act under all the circumstances. A person is incapable of consent when he or she is: (a) less than 17 years old; or (b) mentally disabled; or (c) mentally incapacitated; or (d) physically helpless; or (e) committed to the care and custody or supervision of the state department of correctional services, or a hospital, (f) committed to the care and custody of a local correctional facility, or (g) or committed to the office of children and family services and is in residential care, or (h) a client or patient of a health care provider or mental health care provider, or (i) a resident or inpatient of a residential facility operated by the office of mental health, the office for people with development disabilities, or the office of alcoholism and substance abuse services, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital.

CONSENT, ABBREVIATED: Clear, unambiguous, and voluntary agreement between the participating persons who are capable of consent to engage in specific sexual activity.

DATING VIOLENCE: New York State does not specifically define “dating violence.” However, under New York Law, intimate relationships are covered by the definition of domestic violence when the act constitutes a crime listed elsewhere in this document and is committed by a person in an “intimate relationship” with the victim. See “Family or Household Member” for definition of “intimate relationship.”

DOMESTIC VIOLENCE: An act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal
mischief, menacing, reckless endangerment, kidnapping, assault, attempted murder, criminal obstruction or breaching or blood circulation, or strangulation; and such acts have created a substantial risk of physical or emotional harm to a person or a person’s child. Such acts are alleged to have been committed by a family member. The victim can be anyone over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person’s child is a victim of the act.

**FAMILY OR HOUSEHOLD MEMBER:** Persons related by consanguinity or affinity; persons legally married to one another; persons formerly married to one another regardless of whether they still reside in the same household; persons who have a child in common regardless of whether such persons are married or have lived together at any time; unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an “intimate relationship” include, but are not limited to: the nature or type of relationship regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship.” Any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation. Intimate relationship status shall be applied to teens, lesbian/gay/bisexual/transgender, and elderly individuals, current and formerly married and/or dating heterosexual individuals who were, or are in an intimate relationship.

**PARENT:** means natural or adoptive parent or any individual lawfully charged with a minor child’s care or custody.

**SEXUAL ASSAULT:** New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program.

**SEX OFFENSES; LACK OF CONSENT:** Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without the consent of the victim.

**SEXUAL MISCONDUCT:** When a person (1) engages in sexual intercourse with another person without such person’s consent; or (2) engages in oral sexual conduct or anal sexual conduct without such person’s consent; or (3) engages in sexual conduct with an animal or a dead human body.

**RAPE IN THE THIRD DEGREE:** When a person (1) engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) Being 21 years old or more, engages in sexual intercourse with another person less than 17 years old; or (3) engages in sexual intercourse with another person
without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

**RAPE IN THE SECOND DEGREE:** When a person (1) being 18 years old or more, engages in sexual intercourse with another person less than 15 years old; or (2) engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense to the crime of rape in the second degree that the defendant was less than four years older than the victim at the time of the act.

**RAPE IN THE FIRST DEGREE:** When a person engages in sexual intercourse with another person (1) by forcible compulsion; or (2) who is incapable of consent by reason of being physically helpless; or (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

**CRIMINAL SEXUAL ACT IN THE THIRD DEGREE:** When a person engages in oral or anal sexual conduct (1) with a person who is incapable of consent by reason of some factor other than being less than 17 years old; or (2) being 21 years old or more, with a person less than 17 years old; or (3) with another person without such persons consent where such lack of consent is by reason of some factor other than incapacity to consent.

**CRIMINAL SEXUAL ACT IN THE SECOND DEGREE:** When a person engages in oral or anal sexual conduct with another person (1) and is 18 years or more and the other person is less than 15 years old; or (2) who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense that the defendant was less than four years older than the victim at the time of the act.

**CRIMINAL SEXUAL ACT IN THE FIRST DEGREE:** When a person engages in oral or anal sexual conduct with another person (1) by forcible compulsion; (2) who is incapable of consent by reason of being physically helpless; (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

**FORCIBLE TOUCHING:** When a person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor’s sexual desire. It includes squeezing, grabbing, or pinching.

**PERSISTENT SEXUAL ABUSE:** When a person commits a crime of forcible touching, or second or third degree sexual abuse within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which a sentence was imposed on separate occasions of one of the above mentioned crimes or any offense defined in this article, of which the commission or attempted commissions thereof is a felony.

**SEXUAL ABUSE IN THE THIRD DEGREE:** When a person subjects another person to sexual contact without the latter’s consent. For any prosecution under this section, it is an affirmative defense that (1) such other person’s lack of consent was due solely to incapacity to consent by reason of being less than 17 years old; and (2) such other person was more than 14 years old and (3) the defendant was less than five years older than such other person.
SEXUAL ABUSE IN THE SECOND DEGREE: When a person subjects another person to sexual contact and when such other person is (1) incapable of consent by reason of some factor other than being less than 17 years old; or (2) less than 14 years old.

SEXUAL ABUSE IN THE FIRST DEGREE: When a person subjects another person to sexual contact (1) by forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old; or (4) when the defendant is more than 21 years old and the other person is less than 13 years old.

AGGRAVATED SEXUAL ABUSE: For the purposes of this section, conduct performed for a valid medical purpose does not violate the provisions of this section.

AGGRAVATED SEXUAL ABUSE IN THE FOURTH DEGREE: When a person inserts a (1) foreign object in the vagina, urethra, penis, rectum or anus of another person and the other person is incapable of consent by reason of some factor other than being less than 17 years old; or (2) finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than 17 years old.

AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE: When a person inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person (1)(a) by forcible compulsion; (b) when the other person is incapable of consent by reason of being physically helpless; or (c) when the other person is less than 11 years old; or (2) causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.

AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE: When a person inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person (1) by forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old.

AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE: When a person inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person (1) by forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old.

COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE: When over a period of time, not less than three months, a person: (1) engages in two or more acts of sexual conduct with a child less than 11 years old; or (2) being 18 years old or more engages in two or more acts of sexual conduct with a child less than 13 years old. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charges offense occurred outside of the time period charged under this section.
COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE: When a person over a period of time, not less than three months in duration, a person: (1) engages in two or more acts of sexual conduct, or aggravated sexual contact with a child less than 11 years old; or (2) being 18 years old or more engages in two or more acts of sexual conduct which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct, or aggravated sexual contact with a child less than 13 years old. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charges offense occurred outside of the time period charged under this section.

FACILITATING A SEX OFFENSE WITH A CONTROLLED SUBSTANCE: A person is guilty of facilitating a sex offense with a controlled substance when he or she: (1) knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person’s consent and with intent to commit against such person conduct constituting a felony defined in this article; and (2) commits or attempts to commit such conduct constituting a felony defined in this article.

incest in the third degree: A person is guilty of incest in the third degree when he or she marries or engages in sexual intercourse, oral sexual conduct or anal sexual conduct with a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

incest in the second degree: A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, or criminal sexual act in the second degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.

incest in the first degree: A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, or criminal sexual act in the first degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.

stalking in the fourth degree: When a person intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person’s immediate family or a third party with whom such person is acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person’s immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such
conduct consists of appearing, telephoning or initiating communication or contact at such person’s place of employment or business, and the actor was previously clearly informed to cease that conduct. (Effective October 21, 2014: For purposes of subdivision two (2), “following” includes the unauthorized tracking of such person’s movements or location through the use of global positions system or other device.)

**STALKING IN THE THIRD DEGREE:** When a person (1) commits the crime of stalking in the fourth degree against any person in three or more separate transactions, for which the actor has not been previously convicted; or (2) commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) with an intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person’s immediate family; or (4) commits the crime or stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

**STALKING IN THE SECOND DEGREE:** When a person: (1) commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense: (a) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, “Kung Fu Star,” dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapons; or (b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or (2) commits the crime of stalking in the third against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or (4) being 21 years of age or older, repeatedly follows a person under the age of 14 or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of 14 in reasonable fear of physical injury, serious physical injury or death; or (5) commits the crime of stalking in the third degree, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

**STALKING IN THE FIRST DEGREE:** When a person commits the crime of stalking in the third degree or stalking in the second degree and, in the course and furtherance thereof, he or she intentionally or recklessly causes physical injury to the victim of such crime.
Appendix B
Mandatory Child Abuse Reporting

All members of the Colleges community have a duty to report suspected abuse, neglect, or sexual harassment of a minor (a person under the age of 18/17 years old or younger) when either of the following provide reasonable cause to suspect such abuse:

- information shared by the minor or any other individual; or
- personal observations or knowledge.

In addition, New York’s child abuse reporting law requires certain professionals to file a report with the New York Statewide Central Register of Child Abuse and Maltreatment and/or the Office of Children and Family Services when they either have reasonable cause to suspect or become aware of child abuse or maltreatment (neglect) committed by a parent, guardian, custodian or other person legally responsible for a child’s care (“parent or caregiver”). Abuse or maltreatment means that the parent or caregiver directly harms the child or acts in a way that allows the child to be physically or emotionally harmed or sexually abused. The following types of professionals who work for or with the Colleges are required to make these reports: any physician; registered physician assistant; psychologist; registered nurse; social worker; emergency medical technician; licensed mental health counselor; licensed psychoanalyst; director of a children’s overnight camp or summer day camp; mental health professional; substance abuse counselor; alcoholism counselor; and all persons credentialed by the Office of Alcoholism and Substance Abuse Services. This Policy should not be relied upon alone to determine mandatory reporting obligations. Individuals should be aware based upon their role and credentials whether mandatory reporting obligations exist. Any questions should be directed to the supervisor responsible for overseeing the functions or role giving rise to the obligation. In most cases, this will be an employee’s supervisor.

The duty to report is triggered by reasonable suspicion or belief. There is no requirement that there be actual evidence of abuse, nor should any individual seek to investigate the matter before reporting. Any doubt as to whether or not to report should be resolved in favor of making the report to ensure that the appropriate professionals in child protective services can assess the report and evaluate the safety of the minor.

If any member of the Colleges community has reasonable cause to suspect that a minor has been abused or neglected—including reasonable cause arising as part of any program or activity offered or sponsored by the Colleges, including the Hobart and/or William Smith Athletic Department, or by non-Colleges groups using Colleges’ Facilities—or if a minor tells a community member about abuse or neglect, the community member must immediately report the suspected abuse or neglect to any of the following individuals:

- Vice President for Human Resources: 315.781.3312
- Campus Safety: 315.781.3333 or 315.781.3000
- Vice President for Student Affairs: 315.781.3900
• Deans of the Colleges: 315.781.3300 (Hobart) & 315.781.3467 (William Smith)
• Title IX Coordinator: 315.781.3922
• Associate Dean of Students: 315.781.3880
• If involved in a Colleges’ Program, report to the Camp Director or Program Director

The individual receiving the report will then notify the President’s Chief of Staff that a report has been made. The Title IX Coordinator, Vice President for Human Resources, and/or the Camp or Program Director will also report the suspected abuse or neglect to the appropriate authorities, and the reporting community member’s presence may be requested during such report.

Members of the Colleges community may also report abuse or neglect directly to the authorities by calling the New York Statewide Central Register of Child Abuse and Maltreatment at its public hotline (800.342.3720) or one of the following numbers, as appropriate: 800.638.5163 (TDD/TTY) or 800.342.3720 (Video Relay System).

In the event that an individual makes a direct report to SCR, the individual must also submit a written report to Ontario County Child Protective Services within 48 hours of the oral report. The written report form (Child Protective Services form LDSS-2221A) is available at the New York State Office of Children and Family Services website at www.ocfs.ny.gov (click on Forms and then Child Protective Services to access LDSS-2221A). A reporting individual can also obtain the form from the Colleges’ Director of Public Safety. The completed form must be mailed or delivered to Ontario County Department of Social Services’ Child Protective Services unit at 3010 County Complex Drive, Canandaigua, New York 14424-1296. Any individual making a direct report to the state—whether a reporter mandated by New York law or this Policy—should also immediately inform either the Vice President for Human Resources and/or the Camp or Program Director that he or she has made a report.