



HOBART AND WILLIAM SMITH
COLLEGES

INTERIM TITLE IX, HARASSMENT AND DISCRIMINATION POLICY

January 20, 2025

I. STATEMENT OF INTENT

Hobart and William Smith (“HWS”) are committed to fostering a welcoming, safe, non-discriminatory and harassment-free educational, living and working environment for all members of the community. HWS prohibits discrimination against individuals based on any category protected under applicable federal, state, or local laws. Accordingly, HWS does not discriminate, and strictly prohibits unlawful discrimination on the basis of race (including traits historically associated with race, such as hair texture and protective hairstyles), color, religion, creed, national origin, ancestry, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity or expression, age, sexual orientation, physical or mental disability, citizenship, genetic information or predisposing genetic characteristics, marital status, familial status, domestic violence victim status, caregiver status, military status, including past, current, or prospective service in the uniformed services, social class, or any other category or characteristic protected by applicable law. This Policy prohibits specific forms of behavior that violate Title IX of the Education Amendments of 1972 (“Title IX”), Title VII of the Civil Rights Act of 1964 (“Title VII”), New York’s Enough is Enough Law, and the New York State Human Rights Law. This Policy complies with these laws as well as requirements under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by the Violence Against Women Reauthorization Act of 2013 (“VAWA”). HWS also complies with all federal and state civil rights laws banning discrimination in private institutions of higher education.

The protections of this policy apply without regard to race, color, sex, pregnancy, religion, creed, national origin, familial status, disability, age, marital status, sexual orientation, gender identity, gender expression, veteran status, military status, predisposing genetic characteristics, domestic violence victim status, criminal conviction, or any other protected category under applicable local, state, or federal law. All requirements and protections are equitably provided to individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness.

HWS requires all community members to conduct themselves in a manner that does not infringe upon the rights of others. HWS will not tolerate Prohibited Conduct. HWS expects all members of our community to foster a safe, welcoming, and respectful environment on campus. HWS strongly encourages community members to take reasonable and prudent actions to prevent or stop an act of Prohibited Conduct to which an individual is a bystander.

II. SCOPE OF POLICY

This Policy¹ applies to all HWS community members, including students; faculty; staff; and third parties, such as alumni, volunteers, independent contractors, visitors, and any individuals regularly or temporarily employed, studying, living, visiting, conducting business, or having any official capacity at the Colleges (“Third Parties”). This Policy applies to acts of Prohibited Conduct committed by or against students, faculty, staff, or Third Parties. Alleged misconduct subject to this Policy (“Prohibited Conduct”) includes both Title IX Prohibited Conduct (which is defined by law) and Community Standards Prohibited Conduct (which includes allegations that do not meet the definitions under Title IX, but nonetheless violates HWS’ Community Standards, as defined in this Policy). Subject to the definitions of Title IX Prohibited Conduct (which have a limited scope of application), HWS will respond to Prohibited Conduct when the conduct:

- a. Occurs on the HWS campus or other property owned or controlled by HWS or in a building owned or controlled by a student organization officially recognized by HWS;
- b. Occurs in the context of HWS’ employment or education program or activity, including HWS-sponsored global education, athletic activities, or internship programs;
- c. Occurs off-campus or outside of the HWS’ program or activity but has continuing adverse effects on or creates a hostile environment for HWS’ community members while on HWS’ campus or other property owned or controlled by HWS or in an employment or education program or activity of HWS; or Otherwise has a reasonable connection to HWS such that the conduct is within HWS’ disciplinary authority.

III. ACADEMIC FREEDOM

HWS is dedicated to an uncompromising standard of academic excellence and an unwavering commitment to academic freedom, freedom of inquiry, and freedom of expression in the search for truth. This policy and procedures are not intended to inhibit or restrict free expression or exchange of ideas,

¹ Prior Sexual Misconduct Policies will be provided upon request from the Title IX Coordinator.

abridge academic freedom, or prohibit educational content or discussions inside or outside of the classroom that includes germane but controversial or sensitive subject matters protected by academic freedom. Members of the HWS community are free to express their views on any academic subject, regardless of whether those viewpoints are provocative or controversial. Before proceeding with or continuing an investigation of any report of harassment or retaliation that involves an individual's speech or other communication, the institution will take care to distinguish between protected speech and hostile environment harassment. The Equal Opportunity and Title IX Coordinator will take action as needed to restore or preserve a person's access to HWS' education program or activity. Thus, even where conduct might involve academic freedom, if the conduct creates a hostile environment the institution will seek to take actions reasonably calculated to address the conduct short of a disciplinary process.

IV. STUDENT BILL OF RIGHTS²

All HWS students have the right in cases involving sex discrimination to:

- d.** Make a report (or decline to report) to local law enforcement and/or state police;
- e.** Have disclosures of Sexual Assault, Intimate Partner Violence, Stalking and all other forms of Prohibited Conduct treated seriously;
- f.** Make a decision about whether or not to disclose a crime or violation and participate in the Formal Complaint resolution process and/or criminal justice process free from pressure by the institution;
- g.** Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- h.** Be treated with dignity and to receive from HWS courteous, fair, and respectful health care and counseling services, where available;
- i.** Be free from any suggestion that the Complainant is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
- j.** Describe the incident to as few representatives of HWS as practicable and not be required to unnecessarily repeat a description of the incident;
- k.** Be protected from retaliation by HWS, any student, the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the HWS;
- l.** Access to at least one level of appeal of a determination;
- m.** Be accompanied by an Advisor of choice who may assist and advise a Complainant or a Respondent during any meetings and hearings under the Policy and procedures; and
- n.** Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or Formal Complaint resolution process of HWS.

V. TITLE IX NONDISCRIMINATION POLICY AND THE EQUAL OPPORTUNITY AND TITLE IX COORDINATOR

HWS does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment. Title IX is a federal civil rights law that prohibits colleges and universities that receive Federal financial assistance from discrimination on the basis of sex in education programs and activities. Sexual harassment, which includes acts of sexual assault, is a form of sex discrimination prohibited by Title IX. Title IX provides:

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 of the Education Amendments of 1972 (Title IX), 20U.S.C. §1681, et seq.

Sexual Harassment and Discrimination based on sexual orientation and/or gender identity is also prohibited under Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and other applicable statutes.

HWS has designated a Title IX Coordinator to oversee compliance with Title IX who serves in the position of Equal Opportunity and Title IX Coordinator. The Equal Opportunity and Title IX Coordinator ensures training and education of HWS' community members, oversees all reports of Prohibited Conduct, and coordinates HWS' response and/or resolution to all reports. The Equal Opportunity and Title IX Coordinator is a neutral party and is available to meet with any community member as needed to discuss

² New York State law requires colleges and universities to adopt and make part of this Policy the Student Bill of Rights.

available resources, options, and supports.

The Equal Opportunity and Title IX Coordinator and designated staff will:

- a. Oversee HWS' response to reports of Prohibited Conduct, including coordinating the effective implementation of supportive measures following a report of Prohibited Conduct and remedies following a finding of responsibility for engaging in Prohibited Conduct;
- b. Communicate with all members of HWS' community regarding applicable law and policy and provide information about how individuals may access resources and reporting options;
- c. Maintain and implement applicable HWS policies to ensure institutional compliance with applicable law;
- d. Ensure that all students and employees have access to education and training regarding Title IX, related provisions of the Clery Act, and Prohibited Conduct;
- e. Respond to any report regarding conduct that may violate this policy. In this capacity, the Equal Opportunity and Title IX Coordinator shall:
 1. Treat the complainant and respondent equitably as set forth in this Policy;
 2. Promptly contact the Complainant to discuss the availability of supportive measures;
 3. Inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint;
 4. Explain to the Complainant the process for filing a formal Formal Complaint;
 5. Consider the Complainant's wishes with respect to Supportive Measures;
 6. Oversee the prompt and equitable investigation and resolution of the report;
 7. Through Informal Resolution or Formal Resolution, take appropriate action to eliminate the Prohibited Conduct, prevent its recurrence and remedy its effects;
 8. Maintain centralized records of all reports, investigations and resolutions;
 9. Monitor HWS' education program or activity for barriers to reporting information about conduct that reasonably may constitute discrimination and take steps reasonably calculated to address such barriers.

Any inquires or concerns about HWS' application of this Policy or Title IX may be address to the Equal Opportunity and Title IX Coordinator. The Equal Opportunity and Title IX Coordinator is available in person, by phone, or email during regular business hours:

Amanda Jantzi, JD
Equal Opportunity and Title IX Coordinator
Hobart and William Smith Colleges
Office of Title IX Programs and Compliance Hubbs Health Center
119 St. Clair Street Geneva, NY 14456
Phone: (315) 781-3922
titleix@hws.edu

Any inquires or concerns about HWS' anti-discrimination policies or application of Title IX may also be addressed to the U.S. Department of Education 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
OCR.NewYork@ed.gov

Individuals may also file complaints with the New York State Division of Human Rights (DHR) using contact information available at <https://dhr.ny.complaint>.

Inquires involving employees may also be addressed to:

New York State Division of Human Rights One Monroe Square
259 Monroe Avenue, Suite 308
Rochester, NY 14607
Phone: (585) 238-8250
Fax: (718) 722-4525

InfoRochester@dhr.ny.gov

New York State Division of Human Rights Office of Sexual Harassment
55 Hanson Place, Suite 347
Brooklyn, NY 11217
Phone: (718) 722-2060
Phone: 1-800-427-2773

U.S. Equal Employment Opportunity Commission
New York District Office
33 Whitehall Street, 5th Floor New York, NY 10004 Phone: 1-800-669-4000
Fax: (212) 336-3790
TTY: 1-800-669-6820

U.S. Equal Employment Opportunity Commission
Buffalo Local Office
300 Pearl Street, Suite 450
Buffalo, NY 14202
Phone: 1-800-669-4000
Fax: (716) 551-4387
TTY: 1-800-669-6820

VI. PROHIBITED CONDUCT

This Policy prohibits specifically defined forms of behavior, generally referred to as “Title IX Prohibited Conduct” and/or “Community Standards Prohibited Conduct” (both of which are referred to as “Prohibited Conduct”). These two categories of Prohibited Conduct are detailed below with specific classifications. Title IX Prohibited Conduct and/or Community Standards Prohibited Conduct is determined inclusive of the sex, gender, sexual orientation, and/or gender identity/expression of involved parties.

This section also includes definitions and discussion of key terms relating to Sexual Harassment, including Affirmative Consent and Incapacitation.

A. Discrimination

Discrimination is defined as treating members of a protected category less favorably because of their actual or perceived membership in that category or as having a policy or practice that adversely impacts the members of one protected category more than others, unless such treatment is permitted by law or policy. As a note, discrimination on the basis of sex under Community Standards Prohibited Conduct includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

B. Discriminatory Harassment

Discriminatory Harassment is unwelcome non-verbal or physical, verbal, or online conduct where such conduct is based on actual or perceived membership in a protected category, and is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual’s work or academic performance or it has created an intimidating, hostile or offensive environment and would have such an effect on a reasonable person.

1. Protected Categories

Protected categories identified in this policy include: race (including traits historically associated with race, such as hair texture and protective hairstyles), color, religion, creed, national origin, ancestry, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity or expression, age, sexual orientation, physical or mental disability, citizenship, genetic information or predisposing genetic characteristics, marital status, familial status, domestic violence victim status, caregiver status, military status, including past, current, or prospective service in the uniformed services, social class, or any other protected category under applicable local, state or federal law.

Discriminatory Harassment related to sex is treated as Sexual Harassment, as defined below, either as

Title IX Prohibited Conduct or Community Standards Prohibited Conduct.

C. **Title IX Prohibited Conduct**

A potential violation of Title IX Prohibited Conduct must meet the following criteria:

1. The conduct is alleged to have occurred in the United States;
2. The conduct is alleged to have occurred in the Colleges' education program or activity, which is defined as locations, events or circumstances over which the Colleges exercise substantial control over both the Respondent and the context in which the misconduct occurred, or any building owned or controlled by a student organization officially recognized by the Colleges.

If the above criteria are met, the below represent specific covered sexual harassment violations:

1. **Title IX Sexual Harassment**

Conduct on the basis of sex that involves an employee of the Colleges conditioning the provision of an aid, benefit, or service of the Colleges on an individual's participation in unwelcome sexual conduct, or an individual engaging in unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Colleges' education program or activity.

2. **Title IX Sexual Assault**

May include any of the following Prohibited Conduct:

- a. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the alleged victim;
- b. The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the alleged victim;
- c. Non-forcible sexual intercourse between person who are related to each other within the degrees wherein marriage is prohibited by law;
- d. Non-forcible sexual intercourse with a person who is under the statutory age of consent.

3. **Title IX Dating Violence**

Violence, including sexual or physical abuse or the threat of such abuse, committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the alleged victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, (iii) the frequency of interaction between the person involved in the relationship.

4. **Title IX Domestic Violence**

Violence committed by a current or former spouse or intimate partner of the alleged victim, by a person with whom the alleged victim shares a child in common, by a person who is cohabitating with or has cohabited with the alleged victim as a spouse or intimate partner, by a person similarly situated to a spouse of the alleged victim under New York State domestic or family violence laws or by any other person against an adult or youth alleged victim who is protected from that person's acts under the domestic or family violence laws of New York state.

5. **Title IX Stalking**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. For purposes of this definition, (a) course of conduct means two or more acts, including, but not limited to, acts in which the alleged 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; (b) reasonable person means a reasonable person. Under similar circumstances and with similar identities to the victim; and (c) substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

D. Community Standards Prohibited Conduct

Conduct that does not meeting one or more of the definitions of Title IX Prohibited Conduct, may still be Prohibited Conduct if it falls within the scope of this Policy and meets one of the following definitions. These definitions include harassment because of sex, gender, sexual orientation, gender orientation, gender identity, and/or pregnancy and related conditions.

1. Non-Title IX Sexual Harassment (Non-Employees)

Sexual Harassment is any unwelcome sexual advance, request for sexual favors, or other unwelcome conduct of a sexual nature whether verbal, non-verbal, graphic, physical or other, when conditions (a) and/or (b), below, are present:

- a. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's academic standing, or participation in any program and/or activity of the Colleges or used as the basis for decisions affecting the individual (quid pro quo harassment);
- b. Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, pervasive, or persistent that it unreasonable interferes with, limits, or deprives an individual from participating in or benefitting from the College's education programs and/or activities. The conduct must be deemed severe, pervasive, or persistent under both a subjective and objective standard. The determination of whether an environment is "hostile" must be based on the totality of known circumstances, including:
 - i. the frequency, nature, and severity of the conduct;
 - ii. whether the conduct was physically threatening;
 - iii. the effect of the conduct on the Complainant's mental and/or emotional state;
 - iv. whether the conduct was directed at more than one person;
 - v. whether the conduct arose in the context of other discriminatory conduct;
 - vi. whether the speech or conduct unreasonable interfered with the Complainant's educational or work opportunities or performance (including study abroad), Colleges controlled living environment, work opportunities, or performance. A hostile environment can be created by persistent or pervasive conduct or, if sufficiently severe, by a single incident. 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. In considering whether a policy violation has occurred, the Colleges will evaluate any issues relating to academic freedom and freedom of speech.

2. Gender-based Harassment (Non-Employees)

Gender-Based Harassment is any act of aggression, intimidation, or hostility, whether verbal, non-verbal, graphic, physical, or otherwise, even if the act does not involve conduct of a sexual nature, when the acts are based on the sex, gender, sexual orientation, gender identity, gender expression and pregnancy and related conditions and the following conditions (i) and/or (ii), below, are present:

1. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's academic standing or participation in any program and/or activity of the Colleges or used as the basis for decisions affecting the individual (quid pro quo harassment);
2. Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, pervasive, or persistent that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the Colleges' education programs and/or activities. The conduct must be deemed severe, pervasive, or persistent under both a subjective and objective standard.

3. Non-Title IX Sexual Harassment (Employees)

With respect to Employees, the following additional considerations apply under New York law for determining whether conduct constitutes sexual harassment prohibited under this

policy. Sexual Harassment is a form of workplace discrimination that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment and discrimination are against the law. Any employee or covered individual who engages in sexual harassment, discrimination, or retaliation will be subject to action, including appropriate discipline for employees. In New York, for employees, harassment does not need to be severe or pervasive to be illegal. Employees and covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior.

Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.

- a. *Applicability.* This policy applies to all employees, applicants for employment, and interns, whether paid or unpaid. The policy also applies to additional covered individuals. It applies to anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services to HWS. These individuals include persons commonly referred to as independent contractors, gig workers, and temporary workers. Also included are persons providing equipment repair, cleaning services, or any other services through a contract with HWS. For the remainder of this policy, the term “covered individual” refers to these individuals who are not direct employees of HWS.
- b. *Definition of Sexual Harassment.* Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do.

Respecting an individual’s gender identity is a necessary first step in establishing a safe workplace. Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the New York Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of HWS’ policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts. Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual’s gender identity or expression (perceived or actual), or is of a sexual nature when:

- i. The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment;
- ii. Employment depends implicitly or explicitly on accepting such unwelcome behavior; or
- iii. Decisions regarding an individual's employment are based on an individual's acceptance to or rejection of such behavior. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

- i. Behaviors that contribute to a hostile work environment include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee's job performance.
- ii. Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called quid pro quo harassment.

Any employee or covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

c. *Examples of Sexual Harassment.* The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. This list is just a sample of behaviors and should not be considered exhaustive. Any employee who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body; or
 - Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).
- Unwanted sexual comments, advances, or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits;
 - This can include sexual advances/pressure placed on a service industry employee by customers or clients, especially those industries where hospitality and tips are essential to the customer/employee relationship;
 - Subtle or obvious pressure for unwelcome sexual activities; or
 - Repeated requests for dates or romantic gestures, including gift-giving.
- Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in

messaging apps when employees are working remotely can create a similarly hostile work environment.

- Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look:
 - Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or
 - Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing displays while in the workplace;
 - This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:
 - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, or name-calling;
 - Intentional misuse of an individual's preferred pronouns; or
 - Creating different expectations for individuals based on their perceived identities:
 - Dress codes that place more emphasis on women's attire;
 - Leaving parents/caregivers out of meetings.

d. *Targets of Sexual Harassment.* Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York Law protects employees and all covered individuals described earlier in the policy. Harassers can be anyone in the workplace. A supervisor, a supervisee, or a coworker can all be harassers. Anyone else in the workplace can also be harassers including an independent contractor, contract worker, vendor, client, customer, patient, constituent, or visitor.

Sexual harassment does not happen in a vacuum and discrimination experienced by an employee can be impacted by biases and identities beyond an individual's gender. For example:

- Placing different demands or expectations on black women employees than white women employees can be both racial and gender discrimination;
- An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or
- Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

e. *Where Sexual Harassment Can Occur.* Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer or industry sponsored events or parties. Calls, texts, emails, and social media usage by employees or covered individuals can constitute

unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

Sexual harassment can occur when employees are working remotely from home as well. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home when the harassment occurs.

Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

4. *Non-Title IX Sexual Assault*

Sexual Assault is having or attempting to have sexual intercourse or sexual contact with another individual without Affirmative Consent.

Sexual intercourse is any vaginal or anal penetration, however slight, with any object or by a penis, tongue, finger or other body part performed by an individual upon another individual. Sexual intercourse also includes any contact, however slight, between the mouth of one individual and the genitalia of another individual.

Sexual contact is any intentional sexual touching, however slight, of the breasts, buttocks, groin, or genitals, whether clothed or unclothed, with any object or body part performed by an individual upon another individual. Sexual contact includes making an individual touch another individual with or on the breasts, buttocks, groin, or genitals.

5. *Sexual Exploitation*

Sexual Exploitation is purposely, knowingly, or attempting to:

- a. Observe or allowing third parties to observe an individual's genitalia, groin, breasts, buttocks, or private sexual activity without the knowledge and consent of the participants, including through a hidden location or through electronic means in a place where there is a reasonable expectation of privacy;
- b. Record or photograph an individual's genitalia, groin, breasts, buttocks, or private sexual activity without consent;
- c. Disseminate recordings or photographs of an individual's genitalia, groin, breast, buttocks, or private sexual activity without consent;
- d. Expose genitals or inducing another to expose their own genitals without Affirmative Consent;
- e. Expose another individual to a sexual transmitted infection(s) without the other's knowledge;
- f. Cause incapacitation of another individual through alcohol, drugs, or any other means, for the purpose of compromising that individual's ability to consent to sexual activity; or
- g. Assist or otherwise facilitate any act of Community Standards Prohibited Conduct.

6. *Non-Title IX Intimate Partner Violence*

Intimate Partner Violence includes both dating violence and domestic violence and includes any act of violence or threatened act of violence against a person who is, or has been involved in, a relationship of a sexual, dating, domestic, or other intimate nature with the Respondent. Intimate Partner Violence can encompass a broad range of behavior and may include Sexual or Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Physical Assault, Stalking, and Retaliation.

The Colleges will evaluate the existence of the relationship based on the Complainant's statement and take into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the individuals involved in the relationship.

7. *Physical Assault*

Physical Assault is threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. The Colleges may address

Physical Assault under this Policy when it occurs in the context of other forms of Community Standards Prohibited Conduct, such as Sexual Assault, Intimate Partner Violence or is based upon the sex, gender, sexual orientation, gender identity, gender expression, or the pregnancy and related conditions of the Complainant.

8. *Non-Title IX Stalking*

Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear for the person's safety or safety of others or to suffer substantial emotional distress.

- Course of conduct means two or more acts, including but not limited to, acts in which an individual directly, indirectly or through third parties, by any action, method, device or means follows, monitors, observes, surveils, threatens or communicates to or about another individual, or interferes with another individual's property.
- Substantial emotional distress means significant mental suffering or anguish.
- Reasonable person means a reasonable person under similar circumstances to the victim.

Stalking includes cyber-stalking, a particular form of stalking in which an individual uses electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

9. *Retaliation*

Retaliation is intimidation, threats, coercion, or discrimination of any person by HWS', a Student, or an employee or other person authorized by the HWS to provide aid, benefit, or service under HWS' Education Program or Activity for the purpose of interfering with any right or privilege secured by this Policy or Title IX, or because the person has reported information, made a Formal Complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy, including an informal resolution process. Retaliation includes peer retaliation, which is retaliation by one student against another student.

10. *Sex Discrimination*

Discrimination under this Policy is defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of sex, gender identity or expression, or sexual orientation.

Right to Proceed on Conduct Prohibited by Separate Policy – HWS reserve the right to adjudicate other Community Standards as defined by policies outside of the scope of the Title IX and Sexual Misconduct Policy in instances when the conduct is associated with an alleged issue of Prohibited Conduct.

VII. KEY TERMS AND DEFINITIONS

a. Adjudicator

The person designated by HWS to make a determination of whether Prohibited Conduct occurred.

b. Admission

Means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an Education Program or Activity operated by HWS.

c. Affirmative Consent

Consent under this Policy requires Affirmative Consent (Consent). Affirmative Consent is a knowing, voluntary, and mutual decision among participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, gender, sexual orientation, gender identity, or gender expression.

Affirmative Consent cannot be obtained through force, including physical force, threats, intimidation, or coercion which would compel a reasonable person to engage in unwanted sexual activity against

their will. This may include pressure that would compel a reasonable individual to initiate or continue sexual activity against that individual's will. When a person makes clear a decision not to participate in a particular form of Sexual Contact or Sexual Intercourse, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued pressure can be coercive. In evaluating whether coercion existed sufficient to take away the Complainant's free will, HWS will consider, among other things: (i) the nature of the pressure; (ii) the frequency of the application of the pressure; (iii) the intensity of the pressure; (iv) the degree of isolation of the person being pressured; and (v) the duration of the pressure.

Affirmative Consent cannot be obtained by taking advantage of the incapacitation of another individual where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated. Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity. An individual is incapacitated if the individual lacks conscious knowledge of the nature of the act or is physically helpless, asleep, unconscious, or otherwise unaware that sexual activity is occurring. An individual may be incapacitated as a result of the consumption of alcohol or other drugs or due to a temporary or permanent physical or mental health condition.

Evaluating Affirmative Consent

1. *Affirmative Consent and Incapacitation.* In evaluating Affirmative Consent in case of alleged incapacitation, HWS ask two questions: (1) Did the person initiating sexual activity know that the other party was incapacitated? And if not, (2) should a sober, reasonable person in the same situation have known that the other party was incapacitated? If the Complainant was incapacitated and the answer to either of these questions is "yes", Affirmative Consent was absent. Consent is required to be obtained regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.

An individual who is under the influence of alcohol and/or other drugs may be incapacitated, and therefore unable to consent.

Consumption of alcohol or other drugs alone is insufficient to establish incapacitation. Incapacitation is a state beyond drunkenness or intoxication. 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 other drugs impacts an individual's:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgements; and
- Capacity to appreciate the nature and the quality of the act.

Common and obvious warning signs can show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, signs may include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: "Where are you?" "How did you get here?" "What is happening?" "Who are you with?"

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, ability to communicate clearly, awareness of the consequences, and ability to make informed judgments. Individuals engaging in sexual activity should continually evaluate Consent throughout the encounter. An individual who does not initially appear to be incapacitated may become incapacitated as the effects of alcohol or other drugs increase. 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 impaired by alcohol or other drugs is not a defense to a violation of this Policy.

Guidance on Affirmative Consent

A person who wants to engage in a specific sexual activity is responsible for obtaining Affirmative Consent for that activity. Silence and/or passivity do not constitute Consent. Lack of resistance does

not constitute Consent.

1. Consent is active, not passive. HWS offers the following guidance on Affirmative Consent:
 - 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.
 - Consent may be withdrawn by any party at any time. An individual who seeks to withdraw Affirmative consent must communicate, through clear words or actions, a decision to cease the sexual activity. 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.
 - Consent to one form of sexual activity does not, by itself, constitute Consent to another form of sexual activity. Consent to sexual activity on one occasion does not constitute consent to sexual activity on other occasions. Consent to sexual activity with one person does not constitute consent to sexual activity with any other person. Each participant in a sexual encounter must consent to each form of sexual activity with each participant.
 - Each party must consent to each instance of sexual contact each time. Prior consensual sexual activity does not, by itself, constitute consent to future sexual activity. In cases of prior relationships between the parties, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of Affirmative Consent.
 - In New York, an individual less than 17 years old is incapable of giving consent.
 - Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and may result in a violation of this Policy. Participants are encouraged to talk with one another before engaging in sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity.

d. Complainant

Means an individual who is reported to have experienced conduct that could constitute Prohibited Conduct³.

e. Education Program or Activity

For the purposes of this policy, HWS' "education program or activity" includes:

1. Locations, events, or circumstances over which HWS exercises substantial control over both the Respondent and the context in which the Title IX Prohibited Conduct occurs.
2. These obligations extend to incidents of Title IX Prohibited Conduct that occur off campus if any of three conditions are met:
 - The off-campus incident occurs as part of HWS' operations;
 - HWS exercises substantial control over the Respondent and the context of alleged Title IX Prohibited Conduct that occurred off-campus; or
 - The incident of Title IX Prohibited Conduct occurs at an off-campus building owned or controlled by a student organization officially recognized by HWS.

f. Formal Complaint

A document submitted by a Complainant and bearing the Complainant's physical or digital signature, or otherwise indicating that the Complainant is the one filing the Formal Complaint, requesting that the Colleges investigate the allegations of Prohibited Conduct. The Title IX Coordinator may also sign a Formal Complaint, as discussed in Appendix A, section III, but does not become the Complainant by doing so. In order to file a Formal Complaint, a Complainant must be participating in or attempting to participate in HWS' education program or activity at the time a Formal Complaint is filed.

g. Party

³ HWS recognizes that individual Complainants may also choose to self-identity as a victim or survivor.

Means a complainant or respondent.

h. Parental Status

For the purposes of this policy, parental status means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: 1) a biological parent, 2) an adoptive parent, 3) a foster parent, 4) a stepparent, 5) a legal custodian or guardian, 6) in loco parentis with respect to such a person, or 7) actively seeking legal custody, guardianship, visitation, or adoption of such a person.

i. Pregnancy or Related Condition

For the purposes of this policy, pregnancy or related condition means 1) pregnancy, childbirth, termination of pregnancy, or lactation; 2) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or 3) recovery from pregnancy, childbirth, termination of pregnancy, lactation or related medical conditions.

j. Respondent

Means an individual or group/organization who has been reported as engaging in conduct could constitute covered violations as defined under this Policy. Groups and/or organizations may only be charged with forms of Community Standards Prohibited Conduct.

k. Student

A person who has gained Admission to HWS.

l. Supportive Measures

Means individualized means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: (1) restore or preserve that Party's access to HWS' Education Program or Activity, including measures that are designed to protect the safety of the Parties or HWS' educational environment; or (2) provide support during HWS' grievance procedures for Sexual Harassment or during the informal resolution process.

VIII. AMNESTY, OBLIGATION TO PROVIDE TRUTHFUL INFORMATION AND GROUP INFRACTIONS

a. Policy for Alcohol and Drug Use Amnesty

The health and safety of every student is of utmost importance. HWS recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that Prohibited Conduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct or the conduct of others. HWS strongly encourages students to immediately report Prohibited Conduct to HWS or law enforcement. A bystander acting in good faith or a Complainant acting in good faith that discloses any incident of Prohibited Conduct to HWS or law enforcement will not be subject to disciplinary action under HWS' Community Standards for violations of alcohol and/or drug use policies based on ingestion occurring at or near the time of the reported Prohibited Conduct.

Other individuals present will also not be subject to disciplinary action under HWS' Community Standards for violations of alcohol and/or drug use policies based on ingestion occurring at or near the time of the reported Prohibited Conduct.

b. Obligation to Provide Truthful Information

All community members of HWS are expected to cooperate fully and provide truthful information in any report or proceeding under this Policy. Providing false or misleading information in bad faith, such as with a view to personal gain or intentional harm to another in connection with an incident of Prohibited Conduct, is prohibited and subject to disciplinary sanctions under HWS' Community Standards and disciplinary action under the appropriate employee disciplinary policy. Even if a report is later not substantiated, that does not necessarily mean that the information was provided in bad faith.

c. Group Infractions

When members of a student group, organization, team, or individuals act collusively in violation of the Community Standards Prohibited Conduct, they may be charged as a group and/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.

IX. PRIVACY, CONFIDENTIALITY, AND EMPLOYEE REPORTING RESPONSIBILITIES

HWS is committed to protecting the privacy of all individuals involved in the resolution of a report of Prohibited Conduct. Throughout the reporting, investigation and resolution of a Formal Complaint, including the implementation of supportive measures, HWS will make reasonable efforts to protect the privacy interests of all involved individuals in accordance with federal and state law while also conducting a thorough review and response to eliminate, prevent, and address Prohibited Conduct.

Employees of HWS may be designated as Confidential Employees or Actual Knowledge Employees. Actual Knowledge Employees have reporting obligations under this Policy, but will, to the fullest extent possible, maintain the privacy of an individual's information. Confidential Employees do not have a reporting obligation under Title IX and will keep information confidential (except as required or permitted to by law).

Unless designated as a Confidential Employee or Actual Knowledge Employee, all other employees of the Colleges are encouraged to make an immediate report to the Equal Opportunity and Title IX Coordinator or a Deputy Title IX Coordinator upon receiving information about an incident of Prohibited Conduct. The report should include the reporting employee's name and contact information so that the Equal Opportunity and Title IX Coordinator can follow up. Student Employees, such as Teaching Assistants, and all other student employees, are encouraged to report to the Equal Opportunity and Title IX Coordinator or a Deputy Title IX Coordinator when disclosures are made to any of them in their capacities as employees. Employee, other than Confidential Employees should keep information private, but cannot maintain confidentiality. Employees are encouraged to share all known details about an incident with the Title IX Coordinator, including dates, time, locations, names of involved individuals and the nature of the incident. Offices and employees of the Colleges who cannot guarantee confidentiality will maintain privacy to the greatest extent possible. The information provided to a non-confidential resource will be used only as necessary for the Title IX Coordinator to investigate and/or seek resolution.

In understanding the difference between speaking to an Actual Knowledge or Confidential Employee, it may be helpful to understand the difference between privacy and confidentiality, as they each have distinct meanings under this policy.

a. Privacy

Privacy means that information related to a report of Prohibited Conduct will only be shared with a limited circle of employees of HWS who "need to know" in order to assist in the active review, investigation and resolution of the Formal Complaint and implementation of supportive measures.

b. Confidentiality

Certain campus community professionals, including mental health providers, ordained clergy, rape crisis counselors, and health care providers, are legally required to keep information shared by an individual confidential and cannot reveal information to a third party. Title IX also allows HWS to designate certain employees as "confidential" whether they are legally required to maintain confidentiality or not. On campus, Confidential Employees are generally prohibited from sharing information unless there is written consent, imminent threat of harm to self or others, or reasonable suspicion of abuse of a minor (someone under the age of 18).

c. Confidential Employees

A Confidential Employee is

1. an employee of HWS whose communications are privileged under Federal or State Law. This confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; this includes licensed medical, clinical, or mental health professionals, or ordained clergy or staff members in the offices of a licensed medical, clinical, or mental health professional, or ordained clergy member.
2. An employee of HWS whom HWS has designated as confidential for the purpose of

providing services to persons related to Sexual Harassment. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about Sexual Harassment in connection with providing those services.

A Confidential Employee will not make a report to HWS unless there is written consent to do so from the patient/client, there is a risk of imminent threat of harm to self or others, or there is reasonable suspicion of abuse of a minor (someone under the age of 18). HWS Confidential Employees are:

- All employees in the Counseling Center;
- All employees in the Office for Spiritual Engagement
- All employees in the Hubbs Health Center; and
- Any other professional with a legally recognized privilege.

Consistent with the Clery Act, any data collected from Confidential Employees about the disclosures of Prohibited Conduct will be done in an aggregate manner and in a way that does not reveal personally identify information of the parties to include in annual crime statistics, address any system concerns, and inform training and education programs.

d. Actual Knowledge Employees

An Actual Knowledge Employee is an employee who upon receipt of allegations of sexual harassment is required to make an immediate report to the Equal Opportunity and Title IX Coordinator or a Deputy Title IX Coordinator. This report must include the Actual Knowledge Employee's name and contact information, and all known details about an incident, including dates, times, locations, names of involved individuals and the nature of the incident. Actual Knowledge Employees differ from Confidential Employees and all other employees of the Colleges due to their ability to institute corrective measures related to an incident of alleged Prohibited Conduct. Actual Knowledge Employees include the Equal Opportunity and Title IX Coordinator, Deputy Title IX Coordinators, other Title IX office staff, Vice President for Campus Life, Associate Vice President for Campus Safety, Director of Community Values and Conflict Resolution, Student Engagement Professional and Student Staff, the HWS Deans, Human Resources Professional Staff, and the Provost of the Colleges. The Colleges' obligation to respond under this Policy is only triggered upon notice to an Actual Knowledge Employee.

e. Public Awareness Events

No employees are required to report information shared during public awareness events, unless the information provided indicates an imminent and serious threat to the health and safety of a complainant, any students, employees or other persons. Public awareness events including public events or forums at which individuals discuss experiences of sexual violation or other forms of Prohibited Conduct. These discussions are not considered notice to the school for the purpose of triggering an individual investigation unless initiated by the Complainant. HWS may use any information provided at such events to review policy, inform ongoing education and prevention efforts, and assess climate to learn more about the prevalence of Prohibited Conduct at HWS.

f. Clery Reporting

Under the Clery Act, HWS is required to issue timely warnings to the HWS community where certain reported crimes (including some forms of Prohibited Conduct) pose a serious or continuing threat to the HWS community. The Clery Act also requires HWS to maintain, make available to the public, and provide the United States Department of Education statistics about certain reported crimes in a daily crime log and annual security report. Timely warnings and HWS' crime statistics do not include personally identifying information of involved parties.

X. CAMPUS AND COMMUNITY RESOURCES

HWS offers a wide range of resources to provide support and guidance from initial contact through report, investigation, and resolution of Prohibited Conduct. HWS provides emergency access to a Equal Opportunity and Title IX Coordinator or designated staff who will be available upon the first instance of disclosure by a Complainant. They will offer reasonable and appropriate measures to Complainants and Respondents and facilitate the continued access to the HWS' education or employment programs and activities.

a. Emergency Resources

1. Confidential Medical Assistance

An individual who experiences Sexual Assault, Intimate Partner Violence, or any other form of violence is strongly encouraged to seek immediate medical attention at:

F.F. Thompson Hospital
350 Parrish Street
Canandaigua, NY 14424
Phone: (585) 396-6000

F.F. Thompson Hospital is the closest hospital in the Geneva area where an individual can receive a forensic sexual assault examination by a Sexual Assault Nurse Examiner (also known as a “SANE Nurse”). SANE Nurses can assess injuries related to physical trauma; evaluate for sexually-transmitted infections and possible pregnancy; provide medical care (including medications to prevent infections and pregnancy); and can, generally within the first 96 hours after a sexual assault, administer a “forensic exam.” During the forensic exam, the SANE Nurse documents and collects evidence of sexual contact and/or physical trauma (including injuries to the body and genitals), trace evidence, biological fluids, and identifiable DNA. When there is reason to believe that an assault may have been facilitated the use of drugs or alcohol, the forensic exam may also include the collection of urine and blood samples for toxicology testing. Individuals are not required to report an incident to law enforcement or HWS in order to receive medical attention or a forensic exam. Individuals may have a support person of their choosing present throughout the forensic exam. In addition, advocates from Safe Harbors of the Finger Lakes, a local rape crisis center, are available to accompany and offer support to persons seeking a forensic exam. Transportation to F.F. Thompson can be arranged by contacting Campus Safety. It is not necessary to give your name or make a report in order to obtain transportation assistance.

Individuals are encouraged to seek follow-up care to address any ongoing medical concerns, including those related to sexually-transmitted infections and pregnancy, regardless of whether a forensic exam is obtained after a sexual assault. Follow-up care is available at F.F. Thompson Hospital, Hubbs Health Center, Geneva General Hospital, or through any appropriate health care provider outside of HWS.

Hubbs Health Center
HWS Colleges
119 St. Clair Street Geneva, NY 14456
Phone: (315) 781-4580

Geneva General Hospital
North Main and North Streets
Geneva, NY 14456
Phone: (315) 787-4500

2. Law Enforcement

Law enforcement has unique legal authority to seek and execute search warrants, to collect forensic evidence that may have been left at the scene or at other relevant locations, to issue subpoenas to compel testimony or other evidence, and to make an arrest when supported by probable cause to believe a crime has been committed.

Local law enforcement can be reached by contacting the Geneva Police Department⁴ (or one of contacts listed below). Call the Geneva Police Department⁶ or the New York State Police directly for an immediate response.

Emergencies: 911
Geneva Police: (315) 828-6771
NYS Police: (315) 539-3976, Troup E, Zone 2

⁴ The Geneva Police Department may notify the Colleges upon receipt of a report of Prohibited Conduct.

(844) 845-7269, 24-hour hotline

3. Campus Safety

HWS Campus Safety is available 24 hours a day, seven days a week, year-round, to escort any community member of HWS to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, assist individuals obtaining a civil order of protection, and provide information about the Colleges' resources and processes.

HWS Campus Safety
Campus Services Building Off Pulteney Street
Medbery Parking Lot, NE corner
Emergency phone: (315) 781-3333
Non-Emergency phone: (315) 781-3656, (315) 781-3657
Hours: Available 24/7

b. Confidential Crisis Resources (Support and Counseling)

Both Complainants and Respondents are strongly encouraged to seek mental health support after any incident of Prohibited Conduct. In addition to the resources above, there are several confidential sources and hotlines for crisis counseling available through HWS as well as off campus. HWS counselors are Confidential Employees but will offer students information about reporting options and provide trauma-informed support.

1. Counseling Center (for Students)

Students may speak with a counselor in the Counseling Center at any time. During the academic year, an on-call counselor is available 24 hours a day, 7 days a week. Students can access the on-call counselor by contacting their Community Assistant or a member of the Student Engagement staff or by calling Campus Safety. During an after-hours mental health emergency, call Campus Safety at (315) 781-3333 to reach Protocol crisis counseling services, or call the Counseling Center directly and press option one. Campus Safety will not require an individual to disclose their name to be connected to the Protocol counseling services.

HWS Colleges Counseling Center
91 St. Clair Street
Geneva, NY 14456
Phone: (315) 781-3388
Hours: Monday – Friday, 9am-5pm
24/7 Counselor Availability during the academic year via (315) 781-3388

2. Safe Harbors of the Finger Lakes, Inc.

Any member of the HWS Community may seek support from Safe Harbors, a local rape crisis and intimate partner violence support agency, offers free, confidential crisis counseling as well as support groups and other services.

Safe Harbors of the Finger Lakes, Inc. 1 Franklin Street
Geneva, NY 14456
Phone: (315) 781 -1093
24/7 Crisis Line: (800) 247-7273

3. NextGen Employee Assistance Program

Employees may seek confidential counseling for themselves and their families via NexGen Employee Assistance Program. For more information on NexGen services, visit www.nexgeneap.com, company ID: 8956
Hotline Number: (800) 327-2255

c. Confidential Resources

Confidential Employees on campus include:

HWS Colleges Counseling Center

91 St. Clair Street Geneva, NY 14456
Phone: (315) 781-3388
Hours: Monday – Friday, 9am-5pm
24/7 Counselor Availability during the academic year via (315) 781-3388

Hubbs Health Center
HWS Colleges 119 St. Clair Street
Geneva, NY 14456
Phone: (315) 781-4580

Office for Spiritual Engagement
Chaplain
St. John’s Chapel 630 S. Main Street Geneva, NY 14456
Phone: (315) 781-3670

Director, Abbe Center for Jewish Life and Hillel Advisor Demarest 10
HWS Colleges Geneva, NY 14456
Phone: (315) 679-6924

Chaplain/Resident Iman Muslim Life Center Demarest 117A
HWS Colleges Geneva, NY 14456
Phone: (315) 781-3670

Community Confidential Resources:

Safe Harbors of the Finger Lakes, Inc.
1 Franklin Street
Geneva, NY 14456
Phone: (315) 781 -1093
24/7 Crisis Line: (800) 247-7273

Family Counseling Service of the Finger Lakes, Inc.
Employees may seek confidential counseling at Family Counseling Service of the Finger Lakes, Inc. through the HWS Employee Assistance Program. Family Counseling Service provides confidential counseling to eligible employees and their families. Family Counseling Service 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.

Family Counseling Service of the Finger Lakes, Inc.
671 South Exchange Street
Geneva, NY 14456
Phone: (315) 789-2613
Phone: (877) 789-2613

Legal Assistance of Western New York, Inc.
Legal Assistance provides confidential services to individuals who meet their requirements for representation. The best way to determine if Legal Assistance can help is to contact their office and provide information about a specific concern.

Legal Assistance of Western New York, Inc. 361 South Main Street
Geneva, NY 14456
Phone: (315) 781-1465

National Confidential Resources:

Rape and Incest National Network (RAINN)
<https://ohl.rainn.org/online/> Phone: (800) 656-4673

National Domestic Violence Hotline

Phone: (800) 799-SAFE (7233)

d. Supportive Measures

Complainants who report allegations of Sexual Harassment have the right to receive supportive measures from HWS regardless of whether they make a Formal Complaint. Respondents also have the right to supportive measures. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent or other involved parties. Such measures are designed to restore or preserve equal access to HWS' education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the HWS educational environment, or to deter sexual harassment. The Equal Opportunity and Title IX Coordinator can provide a wide range of supportive measures including, but not limited to, counseling; academic modifications and support; changes in class, work, housing, or extracurricular or any other activity regardless of whether there is or is not a comparable alternative; campus escort services; no-contact orders; increased security and monitoring of certain areas of the campus; and training and education programs related to Sexual Harassment. Supportive measures are available regardless of whether a Complainant pursues criminal or disciplinary action through HWS.

The Equal Opportunity and Title IX Coordinator will ensure individuals receive written notification of all their rights and options, regardless of whether the individual chooses to make a Formal Complaint under this Policy or make a report to law enforcement. The Equal Opportunity and Title IX Coordinator also will promptly inform the Complainant and/or Respondent of any action(s) that will directly impact the Complainant and/or Respondent. HWS will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the ability to provide the supportive measures or restore or preserve a party's access to HWS' education program or activity or as otherwise permitted by law.

Note on Orders of Protection and their equivalent: HWS must provide a copy of the order of protection or equivalent when it is received by HWS, and Parties shall have the opportunity to meet or speak with the Equal Opportunity and Title IX Coordinator, who can explain the order and answer questions about it, including information from the order about the Respondent's responsibility to stay away from the protected person or persons. Parties are entitled to an explanation of the consequences for violating these orders, including without limitation, arrest, additional conduct charges, and interim suspension or emergency removal, as applicable. A Complainant is also entitled to receive assistance from Campus Safety to call on and assist local law enforcement in effecting an arrest for violating such order, in accordance with limits on current law enforcement jurisdiction and procedures.

The availability of supportive measures will be determined by the specific circumstances of each case. Each party shall have the right to submit evidence regarding the propriety of supportive measures. The Equal Opportunity and Title IX Coordinator will consider a number of factors in determining which measures to take, including the needs and requests of the individuals seeking supportive measures; the severity or pervasiveness of the reported Prohibited Conduct; any continuing effects on the Complainant and/or Respondent; whether the Complainant and the Respondent share the same residence hall, dining hall, academic course(s), or job location; and whether other judicial measures have been taken to protect the Complainant (e.g., Protective Orders).

In some cases, students may choose to seek a leave of absence or a reduced course load; these actions may, in turn, impact matters such as a student's immigration, visa and/or financial aid status. In such cases, the Equal Opportunity and Title IX Coordinator will assist the student in coordination with the appropriate resources.

1. Process for Review of Supportive Measures

HWS provides for a Complainant or Respondent to seek modification or reversal of HWS' decision to provide, deny, modify or terminate a supportive measure. Grounds for challenge of a supportive measure include, but are not limited to: whether the supportive measure is unreasonably burdensome, whether a supportive measure is reasonably available, whether a supportive measure is being imposed for punitive or disciplinary reasons, whether the supportive measure is being imposed without fee or charge, and whether the supportive

measure is effective in meeting the purposes for which it was intended, including to restore or preserve access to the Education Program or Activity, provide safety, or provide support during the Complaint Resolution Process.

Request for modification or reversal of a supportive measure must be timely. A Complainant or Respondent shall be afforded a prompt review, reasonable under the circumstances, of the need for, and terms of, any supportive measure that directly affects them, and may do so by contacting the Equal Opportunity and Title IX Coordinator. The review will be conducted by an impartial employee of HWS chosen by the Equal Opportunity and Title IX Coordinator, who did not make the challenged decision on the original supportive measure request. The impartial employee, designated as decisionmaker for the supportive measure review, will have the authority to modify or reverse the decision if the impartial employee determines that decision to provide, deny, modify or terminate the supportive measure was inconsistent with the procedures as outlined above for providing supportive measures in accordance with the Title IX regulations.

e. Students with Disabilities

This Policy does not alter any institutional obligations under applicable federal, state, and/or local disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Equal Opportunity and Title IX Coordinator at any point before or during the Title IX Grievance Procedure that do not fundamentally alter the Procedures. The Equal Opportunity and Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs or activities.

If the Complainant or Respondent discloses a disability, the Equal Opportunity and Title IX Coordinator may consult, as appropriate, with the Center for Teaching and Learning to provide support to students with disabilities to determine how to comply with applicable law including, without limitation, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 in the implementation of any Supportive Measures, or any reasonable accommodations requested during the Grievance Procedure.

XI. REPORTING OPTIONS

There are multiple channels for reporting Prohibited Conduct. The Equal Opportunity and Title IX Coordinator seeks to identify barriers to reporting conduct that may reasonably constitute sex discrimination and take steps reasonably calculated to address such barriers.

At the first issue of disclosure by a Complainant to a representative of HWS, the following information will be provided: “You have the right to make a report to Campus Safety, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from Retaliation for reporting an incident; and to receive assistance and resources from your institution.” The Complainant is protected in their right to make a Formal Complaint even if they leave HWS’ education program or activity as a result of that discrimination or for other reasons.

Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. All supervisors and managers who receive a disclosure or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring, are required to report such suspected sexual harassment.

Managers and supervisors should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act.

Supervisors and managers can be disciplined if they engage in sexually harassing or discriminatory behavior themselves. Supervisors and managers can also be disciplined for failing to report suspected sexual harassment or allowing sexual harassment to continue after they know about it. Supervisors and managers will also be subject to discipline for engaging in any retaliation.

While supervisors and managers have a responsibility to report harassment and discrimination, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

a. Reporting to HWS

HWS encourages individuals who have experienced, have knowledge of, or have witnessed Prohibited Conduct to make a report to HWS. HWS will seek to honor the Complainant's request(s) for anonymity, that an investigation not be pursued, and/or that no disciplinary action be taken if it is possible to do so while also protecting the safety and well-being of the Complainant and the HWS community.

Making a report to HWS does not require participation in any subsequent proceedings through HWS. A Formal Complaint is not required in order for an individual to receive supportive measures. A Complainant may choose to follow their report with a Formal Complaint.

Although there is no time limit for reporting Prohibited Conduct to HWS, HWS' ability to respond may diminish over time, as evidence may erode, memories may fade, and Respondents may no longer be affiliated with HWS. If the Respondent is no longer a member of the HWS community, HWS may be unable to take disciplinary action, but will provide appropriate supportive measures, assist the Complainant in identifying external reporting options, and take other reasonable steps to respond under Title IX.

Individuals are encouraged to make a direct report of Prohibited Conduct by contacting the Equal Opportunity and Title IX Coordinator:

Amanda Jantzi, JD
Equal Opportunity and Title IX Coordinator
Hobart and William Smith Colleges
Office of Title IX Programs and Compliance Hubbs Health Center
119 Saint Clair St. Geneva, NY 14456
(315)781-3922
titleix@hws.edu

b. Reporting to Law Enforcement

Individuals have the right to notify law enforcement or decline to notify law enforcement. Individuals may contact law enforcement directly (resources above). In keeping with its commitment to taking all appropriate steps to eliminate, prevent, and remedy all Prohibited Conduct, HWS encourage Complainants to report Prohibited Conduct immediately to local law enforcement. Individuals may seek assistance in notifying law enforcement from the Equal Opportunity and Title IX Coordinator or Campus Safety. The Equal Opportunity and Title IX Coordinator can assist in setting up an initial meeting with law enforcement and can accompany individuals to that meeting. In instances that involve an immediate threat to health or safety, HWS may independently notify law enforcement.

c. Preservation of Evidence

HWS recognizes that deciding to report Prohibited Conduct often takes time. Nevertheless, pending the decision to report to either HWS or law enforcement, individuals are strongly encouraged to take immediate steps to preserve all evidence that might support a future report of Prohibited Conduct, an Order of Protection, or an investigation by law enforcement, by HWS, or both. Such evidence may include:

1. A forensic sexual assault examination conducted by a SANE nurse (as soon as possible to ensure preservation of evidence but available up to 96 hours after the Prohibited Conduct); see information on receiving a forensic exam in section VIII (A), above.
2. Photographs of injuries, property damage, or the location of the incident;
3. Any clothing, sheets or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags, not plastic bags);

4. Electronic exchanges (e.g., text messages, emails, and Facebook, Instagram, Snapchat or other social media posts, to the extent that they can be captured or preserved);
5. Photographs (including photographs stored on smartphones and other devices); and
6. Voice-mail messages and other physical, documentary and/or electronic data that might be helpful or relevant in an investigation.

Evidence may be lost by the changing of clothes, bathing, brushing teeth, eating, and drinking. If possible, avoid these actions prior to the forensic sexual assault examination. Electronic and photographic evidence may be lost through the upgrade or replacement of equipment (including smartphones), software and/or accounts, or due to the passage of time.

d. Anonymous Reporting

Any individual may make an anonymous report concerning an act of Prohibited Conduct, including through the HWS online Harassment and Discrimination Reporting Form. Any individual may report with or without disclosing a name, identifying involved persons, or requesting any action. Anonymous reports will go to the Equal Opportunity and Title IX Coordinator and Campus Safety for review and appropriate response and action. The Equal Opportunity and Title IX Coordinator is available to answer questions about reporting and procedural options at any time. Individuals who would like to make an anonymous report are encouraged to call the Equal Opportunity and Title IX Coordinator to discuss options and may do so without identifying themselves or reporting any details about an incident, such as dates, times, locations, names of involved individuals, and the nature of the incident. Depending on the information provided, HWS' ability to take action in response to an anonymous report may be limited.

XII. HWS' INITIAL REPSONSE TO REPORTS OF PROHIBITED CONDUCT

a. Receiving a Report

Upon receipt of a report of Prohibited Conduct, the Equal Opportunity and Title IX Coordinator or a designated staff member will promptly contact the Complainant, if identified in the report. The Equal Opportunity and Title IX Coordinator will discuss the availability of Supportive Measures, consider the Complainant's wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint, and explain to the Complainant the process for filing a Formal Complaint. The Equal Opportunity and Title IX Coordinator will make an initial assessment of the reported information and respond to any immediate safety or well-being concerns raised by the report. In this intake assessment, the Equal Opportunity and Title IX Coordinator will conduct a preliminary assessment and:

- Inform the Complainant of the right to seek medical treatment, and explain the importance of obtaining and reserving forensic and other evidence;
- Inform the Complainant of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- Inform the Complainant about campus and community resources, including no- contact orders;
- Inform the Complainant of the right to file a Formal Complaint and the right to seek Informal Resolution after filing a Formal Complaint; ascertain the Complainant's expressed preference for many or resolution (Informal Resolution, Formal Resolution, or neither); and discuss with the Complainant any concerns or barriers to participating in any investigation and resolution by HWS;
- Explain HWS' prohibition against Retaliation and that HWS will take prompt action in response to any act of Retaliation;
- Assess the nature and circumstances of the report, including whether it provides the names and/ or other information that personally identifies the Complainant, the Respondent, any witness, and/or any other third party with knowledge of the reported incident;
- Ascertain the ages of the Complainant and the Respondent, if known, and, if either of the parties is a minor (under 18), as required by law, contact the appropriate child protective service agency;
- Coordinate with appropriate officials of HWS to determine whether the report triggers any Clery Act reporting requirements, including entry of the report in the daily crime log and/or issuance of a timely warning, and take steps to meet those obligations; and
- Ensure that the Complainant receives a written explanation of all available resources and options and is offered the opportunity to meet and discuss those resources and options;
- Assess, based on the totality of the known circumstances, any threat to the safety or well-being of the Complainant or the HWS community. This determination will be guided by the following safety factors:

- Whether the Respondent has prior history, is the subject of prior reports and/or complaints related to any form of Prohibited Conduct, or has any history of violent behavior;
- Whether the Respondent has a history of failing to comply with any no- contact orders issued by HWS, other supportive measures by HWS, and/or any judicial protective order;
- Whether the report is an escalation in Prohibited Conduct by the Respondent;
- Whether the Respondent has threatened to commit violence or any form of Prohibited Conduct;
- Whether the Prohibited Conduct involved multiple Respondents;
- Whether the Prohibited Conduct involved physical violence or use of a weapon;
- Whether the report or other available information reveals a pattern of Prohibited Conduct;
- Whether the Prohibited Conduct was facilitated through the use of drugs or intoxicants;
- Whether the Prohibited Conduct occurred while the Complainant was unconscious, physically helpless, or unaware that the Prohibited Conduct was occurring;
- Whether the Complainant is (or was at the time of the Prohibited Conduct) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

Where the Complainant requests that personally-identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no further action be taken, the Equal Opportunity and Title IX Coordinator will seek to honor the preferences of the Complainant wherever possible taking into consideration the safety factors listed above and the Colleges' legal obligations. The Equal Opportunity and Title IX Coordinator will determine whether the Equal Opportunity and Title IX Coordinator will sign a Formal Complaint even if the Complainant declines to do so. See Note on Title IX Coordinator Initiated Formal Complaints under "Procedures for Resolving a Formal Complaint of Prohibited Conduct – I. Requirements for Formal Complaint Resolution Procedures."

XIII. EMERGENCY REMOVAL

HWS retains the authority to remove a Respondent from HWS' program or activity on an emergency basis. If at any point following the receipt of a report of Prohibited Conduct, HWS determines that the Respondent poses an immediate threat to the physical health or safety of the Complainant or any other person(s), including the Respondent, HWS may temporarily remove the Respondent from any or all of its programs or activities. The imposition of an Emergency Removal does not suggest a finding of responsibility for any Prohibited Conduct.

Before imposing an Emergency Removal, the Vice President of Campus Life or their designee will undertake an individualized safety and risk analysis concerning the Respondent at the request of the Equal Opportunity and Title IX Coordinator. An Emergency Removal will be imposed only if the Vice President of Campus Life concludes that the threat to physical health or safety arises from the allegations of Prohibited Conduct and warrants the removal.

An Emergency Removal may involve the denial of access to some or all of HWS' campus facilities, academic program, or other programs or activities. While HWS may provide alternative academic or employment opportunities during an Emergency Removal, it is not required to do so. Non- punitive actions taken as Supportive Measures (e.g., changes in housing) do not constitute Emergency Removals.

The Equal Opportunity and Title IX Coordinator will notify the Respondent of the terms imposed in connection with an Emergency Removal. The Respondent has the opportunity to challenge the Emergency Removal upon receipt of that notice. In order to challenge the Emergency Removal, the Respondent shall submit a written statement via email to the Equal Opportunity and Title IX Coordinator, within three (3) calendar days from the date of the notice of Emergency Removal, explaining why Emergency Removal is not appropriate. The Equal Opportunity and Title IX Coordinator will designate an individual to review the challenge to the Emergency Removal, who may seek additional information from the Respondent or any other involved party to reach their decision. The Emergency Removal will

remain in place while the review of the challenge is pending. A decision will be issued as soon as possible under the circumstances. The decision is final and not subject to further appeal.

Administrative Leave: separate from the Emergency Removal process, the Equal Opportunity and Title IX Coordinator may request that the Director of Human Resources, or their designee, or the Provost, place an employee or faculty Respondent on an administrative leave, with or without pay consistent with applicable policy.

Student Employees: when a Complainant or Respondent is both a student and employee of HWS, HWS must make a fact-specific inquiry to determine whether this procedure applies to that student employee. HWS will consider if the Complainant or Respondent's primary relationship with HWS is to receive an education and whether the alleged Sexual Harassment occurred while the Party was performing employment-related work.

XIV. WITHDRAWAL PENDING OUTCOME/WITHHOLDING DIPLOMA

If a student Respondent voluntarily withdraws and/or HWS withdraws the Respondent during the pendency of an investigation of Prohibited Conduct, any Formal Resolution process will cease and the Respondent will not be permitted to re-enroll at HWS. The Equal Opportunity and Title IX Coordinator will direct the HWS Registrar to make a notation on the academic transcript of any student who withdraws from HWS while under investigation for certain forms of Prohibited Conduct, namely crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII). The transcript will indicate, "withdrew with conduct charges pending" where a Respondent chooses to withdraw from HWS prior to the conclusion of a Formal Resolution."

HWS may withhold a student's degree and/or diploma and/or deny a student participation in commencement or related activities, if the student is the subject of a Formal Complaint, investigation, or adjudication under this Policy and Procedures. If a Respondent graduates and is found to be responsible under this Policy after the date of graduation, HWS may revoke the Respondent's degree and/or diploma. The Respondent will be required to return the diploma to HWS.

If a non-student employee Respondent voluntarily terminates their employment from HWS during the pendency of an investigation of Prohibited Conduct, any Formal Resolution process will cease and the non-student employee Respondent will be ineligible for future employment by HWS.

XV. CONSIDERATION AND RIGHTS ASSOCIATED WITH REPORTS OF PROHIBITED CONDUCT

a. Advisors

Each party has the right to choose and consult with an Advisor of their choice. The Advisor may be any person, including an attorney. The parties may be accompanied by their respective Advisors at any meeting or proceeding under this Policy and Procedures. While the Advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings. HWS will honor the choice of Advisor unless such advisor does not follow the HWS established rules of decorum and rules around participation, provided in Appendix B of this Policy.

In the event that an investigation proceeds with a hearing and a party does not have an Advisor present at the live hearing, the Colleges must provide an Advisor, without fee or charge to that party. The Advisor may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party. At the hearing, the Adjudicator must permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally. Advisors provided by the Colleges will be adults with an understanding of the purpose of cross-examination, and may be attorneys or have training commensurate to attorneys with respect to conducting cross-examination.

b. Coordination with Law Enforcement

The Equal Opportunity and Title IX Coordinator will contact any law enforcement agency that is

conducting its own investigation to inform that agency that the HWS investigation is also in progress; to ascertain the status of the criminal investigation; and to determine the extent to which any evidence collected by law enforcement may be available to HWS in its investigation. HWS has an obligation under New York State law for the Title IX administrative process, if a Formal Complaint is filed, to run concurrently with the criminal justice investigation and proceeding. However, temporary delays are allowed as requested by external entities while law enforcement gathers evidence. Temporary delays generally will not last more than ten (10) calendar days except when law enforcement specifically requests and justifies a longer delay.

XVI. TRAINING, EDUCATION, AND PREVENTION PROGRAMS

HWS provides training to students and employees to ensure they understand this Policy, rights and responsibilities, and the topics and issues related to maintaining an education and employment environment free from Prohibited Conduct.

HWS seeks to prevent Prohibited Conduct through ongoing education, awareness programs, and training. Training topics include but are not limited to: Prohibited Conduct including all relevant definitions, resources available to impacted parties, the role of the Equal Opportunity and Title IX Coordinator, the importance of bystander intervention, risk assessment and reduction strategies, awareness of violence and its long-term impacts, and sanctions for individuals who violate the Colleges' Policy as well as any training requirements as outlined by relevant state and federal law.

The HWS Equal Opportunity and Title IX Coordinator oversees the education and prevention initiatives calendar, tailoring programming to campus needs and climate. Incoming first-year students, transfer students, and new employees will receive primary prevention and awareness programming that covers applicable laws and penalties; procedures and policies of HWS; availability of counseling and other support services; nature of and common circumstances relating to domestic violence, stalking, and sex offenses on campuses; and the method HWS uses to advise and update students about security procedures. Returning students and employees will receive ongoing training annually or, for employees, promptly upon hiring or change of position that alters their duties under Title IX or the Colleges' policy. All educational programs include information about resources and reporting options available for students, faculty, and staff and the method the Colleges uses to advise and update them about security procedures.

a. Training for for Title IX Staff, Investigators, Adjudicators, and other Facilitators

Title IX Coordinators, Investigators, Adjudicators, and any person who facilitates an Informal Resolution process, will not rely on sex stereotypes and will promote impartial investigations and adjudications of Formal Complaints of Prohibited Conduct. All staff in the Office of Title IX Programs and Compliance, Investigators, Adjudicators, and any person who facilitates an informal resolution process will be trained on appropriate topics such as: the definition of sexual harassment and Prohibited Conduct; the scope of HWS' education program or activity; how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes (as applicable); and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Investigators will receive training on appropriate topics such as issues of relevance to create an investigative report that fairly summaries relevant evidence.

Adjudicators will also receive appropriate training on topics such as any technology used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

All Investigators will receive annual training on appropriate topics such as: issues related to Prohibited Conduct and on how to conduct an investigation that is trauma-informed as to all parties, fair and impartial, provides parties with notice and a meaningful opportunity to be heard, and protects the safety of Complainants and members of the HWS community while promoting accountability.

Adjudicators are also trained at least annually on appropriate topics such as: non-discrimination; the dynamics of sexual misconduct; the factors relevant to a determination of credibility; the appropriate trauma-informed manner in which to receive and evaluate sensitive information from all parties; the manner of deliberation; evaluation of consent and incapacitation, the presumption of non-

responsibility and the application of the preponderance of the evidence standard; sanctioning; and the HWS Harassment, Title IX and Discrimination Policies and these Procedures.

XVII. RELATED POLICIES

For Students: Handbook of Community Standards For Staff: Employee Handbook

For Faculty: Faculty Handbook & Employee Handbook

XVIII. ANNUAL REVIEW

HWS will evaluate changes in legal requirements, existing resources, the resolution of reports, including timeframes, sanctions and remedies, and other factors and update this Policy as appropriate. HWS will communicate any substantial changes to this Policy to the HWS community.

Appendix A to Hobart and William Smith Colleges' Title IX and Sexual Misconduct Policy

GREIVANCE PROCEDURES FOR RESOLVING A FORMAL COMPLAINT OF PROHIBITED CONDUCT

I. REQUIREMENTS FOR GRIEVANCE PROCEDURES

Under the following process and procedures, the Colleges are required to:

- Treat Complainants and Respondents equitably;
- Ensure that the Equal Opportunity and Title IX Coordinator, any designated staff, investigators, and decisionmakers do not have a conflict of interest or bias against Complainants or Respondents generally or an individual Complainant or Respondent;
- Presume that the Respondent is not responsible for the alleged conduct until a determination whether Prohibited Conduct occurred is made at the conclusion of the Grievance procedures;
- Establish reasonably prompt timeframes for the major stages of the Formal Complaint Resolution Process, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the Parties that includes the reason for the delay;
- Ensure that reasonable steps to protect the privacy of the Parties, any witnesses, and anyone else involved during the pendency of the Formal Complaint Resolution Process; provided that the steps taken do not restrict the abilities of the Parties to obtain and present evidence including by speaking to witnesses (as long as such does not result in Retaliation), consult with their family members, confidential resources, or advisors, or otherwise prepare for the Formal Complaint Resolution Process;
- Ensure an objective evaluation of all evidence deemed Relevant and not otherwise impermissible under this Policy, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person's status as Complainant, Respondent, or witness;
- Exclude impermissible evidence from the Formal Complaint Resolution Process, as defined below.

A Formal Complaint can be filed by the Complainant (as defined in this Policy) or the Equal Opportunity and Title IX Coordinator. As defined earlier in this Policy, a Formal Complaint is a written request to HWS to make a determination about alleged Prohibited Conduct at HWS.

The Equal Opportunity and Title IX Coordinator must evaluate whether the Formal Complaint falls under this Policy five business days after the Formal Complaint is made. If appropriate, the Equal Opportunity and Title IX Coordinator must issue the Notice of Allegations as soon as practicable after the Formal Complaint is evaluated. If there are any delays or extensions on a case-by-case basis, the Equal Opportunity and Title IX Coordinator must appropriately provide notice to the Parties in writing with good cause and the rationale for the extension or delay.

Note on Equal Opportunity and Title IX Coordinator Initiated Formal Complaints: in the absence of a Complaint or the withdrawal of any or all of the allegations in a Formal Complaint, and in the absence or termination of an Informal Resolution process, the Equal Opportunity and Title IX Coordinator must determine whether to initiate Formal Complaint of Sexual Harassment. This determination is fact specific and the Equal Opportunity and Title IX Coordinator must consider:

- The Complainant's request not to proceed with the initiation of a Formal Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Formal Complaint;
- The risk that additional acts of Prohibited Conduct would occur if a Formal Complaint is not initiated;
- The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of a Respondent from campus or imposition of another Disciplinary Sanction to end the Prohibited Conduct and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee of HWS;
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern,

ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;

- The availability of evidence to assist a decisionmaker in determining whether Prohibited Conduct occurred; and
- Whether HWS could end the alleged Prohibited Conduct and prevent its recurrence without initiating this Grievance Procedure.

If after considering these and other relevant factors, the Equal Opportunity and Title IX Coordinator determines that the conduct as alleged present as an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct alleged prevents HWS from ensuring equal access on the basis of sex to its Education Program or Activity, the Equal Opportunity and Title IX Coordinator may initiate a Formal Complaint.

If the Equal Opportunity and Title IX Coordinator does initiate a Formal Complaint after making this determination, the Equal Opportunity and Title IX Coordinator must notify the Complainant prior to doing so and appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures under this Policy.

II. INSTITUTION OF GRIEVANCE PROCESS

Following an intake assessment and receipt of a Formal Complaint the Equal Opportunity and Title IX Coordinator will initiate the Formal Complaint resolution process. These Procedures offer three forms of resolution of Formal Complaints of Prohibited Conduct: (1) Remedies Based Resolution, which includes support offered to complainants and remedies provided to address Prohibited Conduct where the Formal Complaint does not wish for an Informal Resolution or a Formal Resolution and/or the Equal Opportunity and Title IX Coordinator determines that a Remedies Based Resolution is the most appropriate way to address the issue; (2) Informal Resolution, which includes a variety of informal options for resolving Formal Complaints, and (3) Formal Resolution, which involves a formal investigation and, depending on the charge, a live hearing. HWS may consolidate Formal Complaints alleging Prohibited Conduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

Allegations Potentially Falling Under Two Policies: if the alleged conduct, if true, include conduct that would constitute covered Prohibited Conduct under this Policy and conduct that would not constitute covered Prohibit Conduct, the Title IX, Harassment, and Discrimination Policy Grievance Process will be applied to the investigation and adjudication of only the allegations that constitute covered Prohibited Conduct.

Note on Where the Respondent is a Third Party: the Equal Opportunity and Title IX Coordinator will determine the appropriate manner of resolution to ensure a prompt and equitable process and provide for the safety and well-being of the Complainant and the broader campus community. When a report involves students or employees from HWS and another institution, the institutions may work collaboratively to address Prohibited Conduct provided that such collaboration complies with the Family Educational Rights and Privacy Act codified at 20 U.S.C 123g; 34 C.F.R Part 99 and other applicable federal and state laws.

a. Remedies Based Resolution

A Remedies Based resolution is an option for a complainant who does not wish the University to take any further steps to address their concern. The Equal Opportunity and Title IX Coordinator may also decide that certain types of Prohibited Conduct, not involving discrimination based on sex, are also appropriate for a Remedies Based Resolution that does not involve a formal investigation or discipline. This may include, for example, situations in which the Prohibited Conduct involves issues of academic freedom or expression which the Colleges believe should not be subject to discipline but nonetheless require a response from the Colleges. Some types of support that may be appropriate include, but are not limited to: adjustments or changes to class schedules; moving from one residence hall room to another; adjusted deadlines for projects or assignments; adjustments to work schedule or arrangements; escorts to and around campus; or counseling. A support-based resolution does not preclude later use of another form of resolution, including when new information becomes available to HWS and the Equal Opportunity and Title IX Coordinator or designated staff determines there is

need for additional steps to be taken.

b. Notice of Allegation after a Formal Complaint

Upon receipt of a Formal Complaint and determination that there are not grounds to dismiss the complaint, as provided below, the Equal Opportunity and Title IX Coordinator will provide a Notice of Allegations in writing to the Parties whose identities are known. Such notice will occur as soon as practicable after HWS receives a Formal Complaint, if there are no extenuating circumstances.

The Equal Opportunity and Title IX Coordinator will simultaneously notify the Complainant and the Respondent, in writing via HWS email accounts or by other reasonable means, after the receipt of a Formal Complaint. This Notice of Allegation includes:

1. identify the Complainant and the Respondent;
2. specify the date, time (if known), location, and nature of the alleged Prohibited Conduct and include the written complaint;
3. identify potential Policy violation(s) and the essential facts underlying the potential violation(s);
4. identify the type of resolution (informal or formal);
5. include information about the Student Bill of Rights;
6. inform the parties of the right to choose and consult with an Advisor, who can accompany the parties to any meeting or hearing under this Policy and Procedures;
7. explain the prohibition against Retaliation;
8. instruct the parties to preserve any potentially relevant evidence;
9. include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
10. identify how the parties can inspect and review evidence obtained as part of the investigation (for Formal Resolution only) that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which HWS does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source; and
11. provide a copy of the Policy and these Procedures via a hyperlink. The Notice will also include information about the Student Bill of Rights, explain the prohibition against Retaliation, and instruct the parties to preserve any potentially relevant evidence.

Appealing the Notice of Allegations: either party may submit a written electronic appeal to the Equal Opportunity and Title IX Coordinator within three (3) calendar days regarding the Prohibited Conduct Policy violations chosen in the Notice of Allegations. The Equal Opportunity and Title IX Coordinator will have sole discretion to determine the type of policy violation.

No Contact Orders (NCOs) and Notice of Allegations: in many cases, a no-contact order (NCO) will be issued by the Equal Opportunity and Title IX Coordinator to both parties with the Notice of Allegations. A NCO is a directive that requires involved parties to not have contact in any way, including in person, via email, telephone, text messaging, social media, or any other method of electronic or direct communication. The orders will be mutual to both parties, unless designated by the Equal Opportunity and Title IX Coordinator as a one- way order, which would be issued based on a fact specific inquiry, such as to enforce an order of protection issued by a court. The order also includes third parties acting on either the Complainant or Respondent's behalf. HWS may issue a NCO when it is deemed necessary to provide any or all individuals an opportunity to participate fully in the life of the Colleges, and may be also issued as supportive measures.

Modifications to a NCO may be requested to the Equal Opportunity and Title IX Coordinator. Failure to meet a NCO directive may result in disciplinary action. Students may appeal a NCO, including the ability to submit evidence for a modification of the NCO, through appropriate procedures in the Handbook of Community Standards. Employees may appeal a NCO through the Equal Opportunity and Title IX Coordinator. Decisions regarding any appeals will be decided by a person other than the person who implemented the NCO.

Reasonable Safety Concerns and Notice of Allegations: to the extent that HWS has reasonable concern for the safety of any person because of providing the written Notice of Allegations, HWS,

through the Equal Opportunity and Title IX Coordinator, may reasonably delay providing the written Notice of Allegation in order to address the safety concerns appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

c. Dismissal of a Formal Complaint

The Equal Opportunity and Title IX Coordinator will dismiss a Formal Complaint for the purposes of any form of Prohibited Conduct if any of the following circumstances are met:

1. Even if proved, the misconduct alleged in the Formal Complaint would not constitute Prohibited Conduct;
2. The misconduct alleged in the Formal Complaint did not occur in the Colleges' education program or activity; or
3. The misconduct alleged in the Formal Complaint is not alleged to have occurred in the United States.
4. For cases not involving sex discrimination, the Equal Opportunity and Title IX Coordinator may also dismiss a Formal Complaint in favor of a Remedies Based Resolution if the Equal Opportunity and Title IX Coordinator determines that a Remedies Based Resolution is the most appropriate way to address the Prohibited Conduct's effects, remedy its effects, and prevent its recurrence. This may include, for example, situations in which the Prohibited Conduct involves issues of academic freedom or expression which the Colleges believe should not be subject to discipline but nonetheless require a response from HWS. In such a situation, the Colleges will impose remedies but will not make a finding of responsibility or impose discipline on the Respondent.

Dismissal of Title IX Prohibited Conduct for the foregoing reasons does not preclude the Colleges from proceeding with charges of other forms of misconduct, including Community Standards Prohibited Conduct.

Further, if any of the above circumstances are met, the Title IX Coordinator may still dismiss the Formal Complaint for purposes of any form of Title IX Prohibited Conduct and/or Community Standards Prohibited Conduct, in the Title IX Coordinator's sole discretion;

- A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The Respondent is no longer enrolled or employed by the Colleges; or
- If specific circumstances prevent the Colleges from gathering sufficient evidence to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

If a Formal Complaint is dismissed, the involved parties will receive simultaneous written electronic notice of the dismissal, including the reason for the dismissal. If the dismissal of the Formal Complaint occurs before a Notice of Allegations is issued to the Respondent, the Equal Opportunity and Title IX Coordinator does not need to provide notice to the Respondent at that time. However, if the Complainant appeals the dismissal, the Respondent will need to be notified of the Formal Complaint allegations and given an opportunity to respond to the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then HWS must notify the Complainant and Respondent of the dismissal and the basis for the dismissal simultaneously and in writing. Appeal rights, provided below, must also be provided in any notification of dismissal of a Formal Complaint.

Appeal of Formal Complaint Dismissals: Any party may appeal the decision by submitting a request for appeal to the Equal Opportunity and Title IX Coordinator by email within seven (7) business days of the date of the notice from the Title IX Coordinator on the bases set forth in the Appeals, Section F, below. Appeals will be decided by the Vice President of Campus Life, the Provost, and the Assistant Vice President for Human Resources or their designees. The appeal panel will be free from conflict of interest or bias and will not serve as an investigator, Equal Opportunity and Title IX or designated staff by the Equal Opportunity and Title IX Coordinator, or hearing decisionmaker in the same matter.

Outcome of the appeal will be provided in writing simultaneously to both Parties and include the rationale for the decision.

III. INFORMAL RESOLUTION

Informal Resolution presents the opportunity for the Complainant and Respondent to resolve allegations of Prohibited Conduct without an investigation or hearing.

Participation in Informal Resolution in lieu of the Formal Resolution Process is purely voluntary. As to Title IX Prohibited Conduct, Informal Resolution is available only when a Formal Complaint has been filed and the parties agree to its use in writing. For cases involving Community Standards Prohibited Conduct, the Title IX Coordinator may use any form of Informal Resolution and need not strictly follow the procedures set out in this section. Informal Resolution is not available to resolve a student-Complainant's allegation that an employee has engaged in Title IX Prohibited Conduct. The Parties may voluntarily elect to enter the HWS Informal Resolution process at any time through informed written consent. The informed written consent of the parties will include all terms of the elected informal process, including a statement that any agreement reached through the process is binding on the parties.

Informal Resolution may be used only with the approval of the Equal Opportunity and Title IX Coordinator, who may deem its use inappropriate based on the specific allegations involved or other factors. These factors may include, and are not limited to, the gravity of the allegations, whether there is an ongoing threat of harm or safety to the campus, whether the Respondent is a repeat offender, whether the alleged conduct would present a future risk of harm to others, and whether the parties are participating in good faith. The Equal Opportunity and Title IX Coordinator's determination on whether informal resolution may be entered by the parties is not subject to appeal. At any time after the commencement of the Informal Resolution process, the Equal Opportunity and Title IX Coordinator may determine that Informal Resolution process is not an appropriate method for resolving the matter, and may require that the matter be resolved through the Formal Complaint Resolution process. This determination is not subject to appeal. The Equal Opportunity and Title IX Coordinator will provide, in writing, simultaneously to the Parties, written notice whether the request to enter Informal Resolution has been approved or denied. If the Informal Resolution method selected requires a facilitator, the Equal Opportunity and Title IX Coordinator will provide information in writing to the Parties in a reasonable timeframe once the facilitator is assigned.

Informal Resolution can be commenced at any point prior to the conclusion of a Hearing under the Formal Resolution Processes. It may be conducted by an Informal Resolution Facilitator appointed by the Equal Opportunity and Title IX Coordinator. The Complainant, Respondent, Equal Opportunity and Title IX Coordinator, or Facilitator may terminate Informal Resolution at any time prior to its completion. If Informal Resolution is terminated, the Formal Resolution process may promptly commence or resume, as appropriate. No Party may be required to participate in informal resolution and HWS may not condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to Informal Resolution.

Supportive Measures will be available, or continue to be available if already provided, to both Parties during an informal resolution process. The Equal Opportunity and Title IX Coordinator will also, to the extent necessary, take other appropriate prompt and effective steps to ensure that Sexual Harassment does not continue or recur with HWS' education program or activity.

Informal Resolution can take many forms as agreed to between the Complainant, Respondent, and Equal Opportunity and Title IX Coordinator, including, but not limited to:

- Mediation may involve the Complainant and Respondent being in the same or different rooms, but they will never be required to be in the same room. Mediation typically does not require an admission of responsibility for the Prohibited Conduct by the Respondent.
- Restorative Justice may involve the Complainant and Respondent being in the same or different rooms, but they will never be required to be in the same room. Restorative Justice typically requires an admission of responsibility for the Prohibited Conduct, or certain allegations, by the Respondent.
- Educational Programming/Training: Targeted or broad-based educational programming or training for relevant individuals or groups may be provided by the Equal Opportunity and Title IX Coordinator, or the facilitator of their choice based on an agreement of the involved parties.

a. Role of Facilitators

If the parties elect to pursue mediation, restorative justice, or another similar type of resolution that requires a facilitator, the Equal Opportunity and Title IX Coordinator will designate a trained facilitator. The facilitator will not be the same person who would serve as an investigator or decisionmaker in the Colleges' Grievance Procedures and will not have a conflict of interest or bias for or against Complainants and Respondents generally or an individual Complainant or Respondent. The Equal Opportunity and Title IX Coordinator or designated staff may serve as the facilitator, subject to these restrictions. All facilitators will have appropriate training on topics such as: HWS' obligation to address sex discrimination, including Sexual Harassment, in its education program or activity; the scope of conduct that constitutes sex discrimination, including Sexual Harassment, under Title IX, including the definition of Sexual Harassment; all applicable notification and information requirements related to parental, family, or marital status, including pregnancy and related conditions, and HWS response to sex discrimination; the rules and practices associated with HWS informal resolution process; and how to serve impartially, including avoiding conflicts of interest and bias.

b. Contents of Informal Resolution Agreements

Potential terms that may be included in an informal resolution agreement between the Parties include but are not limited to:

- Restrictions on contact; and
- Restrictions on the Respondent's participation in one or more of HWS' education programs or activities or attendance at specific events, including restrictions HWS could have imposed as Remedies or Disciplinary Sanctions had HWS determined at the conclusion of the Grievance Procedures that Sex- Based Harassment occurred.

c. Breach of Informal Resolution Agreements

If a Party breaches the resolution or if HWS has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, HWS may void the agreement and initiate or resume the Grievance Procedures.

d. Withdrawal from Informal Resolution Process

Where the Complainant or the Respondent withdraws from Informal Resolution or Informal Resolution is otherwise terminated for any reason, any statements or disclosures made by the parties during the course of the Informal Resolution will not be considered in a subsequent investigation and Formal Resolution. The Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the Formal Complaint is confidential. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party to the informal resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support, or with an advocacy organization. Any facilitator chosen by the Equal Opportunity and Title IX Coordinator to oversee Informal Resolution may not serve as a witness in the event the Formal Resolution process commences.

e. Outcome of the Informal Resolution Process

The outcome of the Informal Resolution will be documented in an agreement or other form that is signed by both the Complainant and the Respondent. Informal Resolution will not be used to impose disciplinary action against the Respondent and will not be reported to third parties; however, it may be taken into consideration in the event of future findings of responsibility for Prohibited Conduct or other violations of HWS' policies.

The Informal Resolution process typically should be completed within thirty (30) calendar days of the parties documenting their agreement to participate. That period may be extended at the discretion of the Equal Opportunity and Title IX Coordinator. Equal Opportunity and The Title IX Coordinator will maintain records of all reports referred for Informal Resolution.

IV. FORMAL RESOLUTION

Formal Resolution is commenced upon receipt of a Formal Complaint, when the Complainant elects this option, and/or HWS determine that Formal Resolution is appropriate for resolution for the Formal Complaint, or the Informal Resolution process is halted or fails to resolve the Formal Complaint. Formal Resolution involves an investigation where, except in the case of Title IX Prohibited Conduct and Sexual Harassment involving students, the investigator will be the Adjudicator and make findings and, if

appropriate, impose a sanction. Where the Formal Complaint alleges Sexual Harassment involving a student, findings will be made after a hearing before an Adjudicator.

a. Investigation

Whenever Formal Resolution is commenced, the Equal Opportunity and Title IX Coordinator will designate one or more Investigators from HWS and/or an experienced external investigator to conduct the investigation. The Equal Opportunity and Title IX Coordinator will simultaneously notify the Complainant and the Respondent, in writing via HWS email accounts or by other reasonable means, of the commencement of an investigation, and how to challenge participation by the Investigator (s) for bias or conflict of interest – which the Equal Opportunity and Title IX Coordinator will resolve in their sole discretion. This investigation is a neutral fact-gathering process. The Respondent is presumed to be not responsible; this presumption may be overcome only where the Adjudicator concludes that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the Respondent violated the Policy. Neither party is required to participate in the investigation or any form of resolution under these Procedures.

1. *Timing of Investigation*

HWS will seek to complete the investigation within sixty (60) calendar days from the date a Formal Complaint is filed. This period is not guaranteed or achievable in all cases and may be extended for good cause, as described in the section on Timeframe for Completion of Investigation Extension for Good Cause. Any extension, and the reason for the extension, will be shared with the parties in writing.

2. *Privacy of Investigation*

HWS will take reasonable steps to prevent and address the Parties' and their advisor of choice's unauthorized disclosure of information and evidence obtained solely through this Grievance procedure. Participating individuals who engage in unauthorized disclosure of information and evidence obtained solely through the Grievance Procedure may be subject to the HWS Code of Conduct and other policies and procedures of HWS that may apply to the specific individual or circumstance. Note: disclosures of information and evidence for the purpose of administrative proceedings or litigation related to the Formal Complaint of Sexual Harassment are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

3. *Overview of Investigation*

During the investigation, the parties will have an equal opportunity to be heard, to review the relevant information considered by the Investigator including the evidence upon which the Colleges does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation, to submit information and corroborating evidence, to recommend witnesses who may have relevant information, and to submit questions that they believe should be directed by the Investigator to each other or to any witness.

The Investigator will notify and seek to interview separately the Complainant, the Respondent, and third-party witnesses. The Investigator will gather other relevant and available evidence and information, including, without limitation, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party). Parties will be provided sufficient time to prepare to participate in any meetings with the Investigator and provided the date, time, location, and participants.

Typically, the Investigator will prepare a written narrative of interviews with various involved parties (interview summary). The interview summary will be shared with the respective interviewee to review accuracy prior to being included in the record of the investigation.

Finalized interview summaries and all other relevant evidence will be shared electronically with the Complainant, Respondent, and their Advisors prior to inclusion in the Preliminary

Investigative Report (PIR).

The Investigator may not access, consider, disclose, or otherwise use records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Complainant or Respondent, unless the Investigator obtains the Complainant's or Respondent's, as appropriate, voluntary, written consent to do so.

a. Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are excluded as impermissible (i.e., must not be accessed or considered, except by HWS to determine whether an exception applies, must not be disclosed, and must not otherwise be used) regardless of whether they are Relevant:

- i. Evidence that is protected under a privileged as recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- ii. A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless HWS obtains that Party's or witness's voluntary, written consent for use in HWS' Grievance Procedures; and
- iii. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged Sexual Harassment. Note: the fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged Sexual Harassment or preclude determination that Sexual Harassment occurred. The investigator, appointed by the Equal Opportunity and Title IX Coordinator, will determine the relevance of this information and both parties will be informed if evidence of prior sexual history is deemed relevant.

4. *Site Visit and Expert Consultation*

The Investigator may visit relevant sites or locations and record observations through written, photographic, or other means.

The Investigator may consult medical, forensic, technological or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation.

The Parties may present expert witnesses as part of an investigation.

5. *Evidence Review and Response Period*

Prior to the conclusion of the investigation, the Investigator will prepare a Preliminary Investigation Report (PIR) summarizing the information gathered and outlining the contested and uncontested information. The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint relevant and not otherwise impermissible, including inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The investigator will make available to each party and the party's advisor, if any, the evidence subject to inspection and review in an secure electronic format or a hard copy, and the parties will have at least ten (10) calendar days to submit a written response,

which may be comments, proposed questions for the investigator(s) to ask the other party, identification of additional witnesses or sources of evidence, which the investigator will consider prior to completion of the investigative report.

The Investigator will determine the appropriateness of additional investigative steps and the relevance of additional information. If either party provides a written response or makes a request for additional investigation, the written response and any additional information gathered by the Investigator will be shared with the other party and incorporated as appropriate in the investigative report. Any information gathered through additional investigation steps will be shared with both parties, and, as appropriate, each will have the opportunity for further response.

In Formal Complaints alleging Sexual Harassment involving a Student that will proceed to a hearing, the evidence may be shared in the form of a Preliminary Investigation Report (PIR) summarizing the information gathered and outlining the contested and uncontested information. The PIR will not include any findings or credibility assessments, which are reserved for the Adjudicator after a hearing, but may note observations relevant to credibility. The Complainant and the Respondent, in consultation with their Advisors if they so choose, will have an opportunity to review the PIR, respond to it in writing, meeting with the Investigator if needed, submit additional comments and information to the Investigator, identify any additional witnesses or evidence for the Investigator to consider, and submit any further questions that they believe should be directed by the Investigator to the other party or to any witnesses. The Investigator will consider any written response by the parties prior to the completion of the investigative report. The Parties may submit information, witness names and any evidence during the investigation or designated review and response period.

In cases involving a PIR, the Equal Opportunity and Title IX Coordinator will designate ten (10) calendar days for the review and response by the parties after the submission of the PIR. The Investigator will consider any written response by the parties prior to the completion of the investigative report. The Parties may submit information, witness names and any evidence during the investigation or designated review and response period. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator during the investigation or designated review and response period will generally not be considered in the determination of responsibility for a violation of the Policy, and will not be considered by the Adjudicator or the Appeal Panel.

6. *Final Investigative Report*

After conducting any additional investigative steps the Investigator deems appropriate, after receipt and consideration of any additional comments, questions and/or information submitted by the parties during the designated review and response period, the Investigator will prepare a Final Investigation Report (FIR). The Investigator will deliver the FIR to the Equal Opportunity and Title IX Coordinator. The Equal Opportunity and Title IX Coordinator will notify both parties, simultaneously, that the FIR is complete and available for electronic review. The Title IX Coordinator will then create and electronically send to the Complainant, Respondent, and their Advisors a Notice of Adjudication letter.

Except in cases alleging Title IX Prohibited Conduct and Sexual Harassment involving students, the investigator will reach a conclusion, using the preponderance of evidence standards, as to whether the Respondent has engaged in Prohibited Conduct. A finding of responsibility by a preponderance of the evidence means that it is more likely than not, based on all of the evidence and reasonable inferences from the evidence, that the Respondent violated the policy. If the evidence weighs so evenly that the Investigator is unable to say there is a preponderance on either side, the Adjudicator must determine that there is insufficient evidence to conclude that a violation of the policy occurred. The Adjudicator shall not draw inferences regarding a Party or witness' credibility based on the Party or witness' status as a Complainant,

Respondent, or witness, nor shall it base its judgments on stereotypes about how a Party or

witness would or should act under the circumstances. If a violation has been found, the Adjudicator will make a determination as to the appropriate sanction in accordance with Section E.

The investigative report will constitute the decision of outcome and will include all of the elements set forth in Section E, below, concerning Written Notice of Outcome, and will be provided to both parties.

In cases involving Faculty Respondents, if the faculty member does not accept the Investigator's findings and sanction and the result of any appeal, then the faculty member may file a grievance under the procedures set out in the Faculty Bylaws and Procedures. Any procedures relating to termination of a tenured faculty member will be subject to the Faculty Bylaws and Procedures.

b. Resolution with Hearing for Complaints of Title IX Prohibited Conduct and Sexual Harassment Involving Students

For Formal Complaints of Title Prohibited Conduct Sexual Harassment involving Students, HWS will hold a live hearing by a single decision-maker or panel of decision-makers, known as the Adjudicator(s).

1. Notice and Timing of Hearing

Within ten (10) calendar days prior to the date of the hearing, the Equal Opportunity and Title IX Coordinator will notify the parties in writing of the specific charge, the date, time, and location of the hearing, the name of the Adjudicator, and how to challenge participation by the Adjudicator for bias or conflict of interest – which the Equal Opportunity and Title IX Coordinator will resolve in their sole discretion. HWS may, at the discretion of the Equal Opportunity and Title IX Coordinator, postpone the hearing or determine that multiple hearing sessions are necessary for a continuance. Good cause for extension may include the unavailability of the parties, the timing of semester breaks or holidays designated by HWS, or other circumstances requiring more time. Any extension, including the reason for the extension, will be shared with the parties in writing. The Complainant or the Respondent may seek to postpone the hearing.

Permission to postpone a hearing may be granted provided that the request to do so is based on a demonstrated need and communicated to the Equal Opportunity and Title IX Coordinator prior to the time of the hearing.

2. Hearing Format

The hearing may be conducted with all parties physically present in the same geographic location, or, at the HWS' discretion, any or all parties, witnesses, and other participants may appear at the hearing virtually through remote video conferencing. Remote video conferencing will enable participants to simultaneously see and hear each other. HWS may delay or adjourn a hearing based on technological errors not within a party's control.

3. Participants in the Live Hearing

Live hearings are not public. The only individuals permitted to participate in the hearing are as follows:

a. The Complainant and Respondent (the Parties)

If a Party chooses not to participate in the process or the hearing, the live hearing may still proceed in the absence of a Party, and HWS may reach a determination of responsibility in their absence, including through any evidence gathered and other witness statements. HWS will not threaten, coerce, intimidate or discriminate against any Party in an attempt to secure the Party's participation. The Adjudicator cannot draw an inference about the determination regarding responsibility based solely on a Party's absence from the live hearing, or a refusal to answer questions. The Parties shall be subject to the HWS' Expectations of Decorum, available in Appendix C of this policy.

b. The Adjudicator

The Adjudicator will not have served as the Equal Opportunity and Title IX

Coordinator, Title IX investigator or advisor to any Party in the case, nor may the Adjudicator serve on the appeals body in the case.

c. Advisor of Choice

The Parties' Advisor of Choice may attend the hearing but, except when conducting cross-examination, may not speak for the Party and are subject to the HWS' Expectations of Decorum.

d. Witnesses

The parties may submit to the Equal Opportunity and Title IX Coordinator a list of witnesses they believe have relevant information to the outcome of the hearing. The Adjudicator will review the parties' requested witnesses and consider any other witnesses. The Adjudicator has discretion to determine which witnesses are relevant and may decline to hear from witnesses where they conclude that the information is not necessary for the review. Witnesses will only be permitted inside the hearing location during their own testimony.

Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation. Witnesses are subject to the Expectations of Decorum.

4. Hearing Procedures

The Colleges will make all evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination questioning. Each party has the opportunity to be heard, to identify witnesses for the Adjudicator's consideration, and to respond to any questions of the Adjudicator. While the parties may not directly question each other or any witness, their Advisors may cross examine witnesses as described below. A typical hearing may include brief opening remarks by the Complainant and/or Respondent, with follow-up questions posed by the Adjudicator, information presented by the parties or witnesses deemed relevant by the Adjudicator, with follow-up question for the parties or witnesses by the Adjudicator and the parties' Advisors for cross-examination, and brief concluding remarks by the Complainant and Respondent. All hearing proceedings will be, at a minimum, audio-recorded and made available for parties' review upon completion of the hearing.

a. Questioning of Parties and Witnesses

During a live hearing, each Party is allowed to ask Relevant and not otherwise impermissible questions and follow-up questions of the Parties and witnesses through cross-examination conducted by their Advisor of Choice. No questioning to another Party or witness will be conducted by the party personally.

i. Cross Examination

Each party's Advisor will may conduct live cross-examination questioning of the other party or parties and witnesses. During this live-cross examination questioning timeframe, the Advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

ii. Determining Relevance of Questions

Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Adjudicator must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless (1) such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct

alleged by the Complainant, or (2) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Other forms of evidence and information that are not considered relevant include: information protected by a legally recognized privilege and any party's medical, psychological, and similar records unless the party has given voluntary, written consent. Cross-examination questions that are duplicative of those already asked, including by the Adjudicator may be deemed irrelevant if they have been asked and answered.

iii. Responding to Questions

If a party or witness is present at the live hearing, but disagrees with a relevance determination, they may have the choice of either

- a. abiding by the Adjudicator's determination and answering, or,
- b. refusing the answer the question.

If a party or witness refuses to submit themselves to questioning by the Adjudicator, the Adjudicator may not draw any inference about the determination of responsibility based solely on the refusal by the party or witness but can still rely on statement evidence.

5. *Decision and Deliberation by Adjudicator*

HWS will use the preponderance of the evidence standard of proof to determine whether Sexual Harassment occurred. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Grievance Procedures occurred.

a. *Considerations for Evaluating Evidence and Testimony*

The Adjudicator is required to evaluate Relevant and not otherwise impermissible evidence for its persuasiveness. If the Adjudicator is not persuaded under the applicable standard by the evidence that Sexual Harassment occurred, whatever the quantity of the evidence is, the Adjudicator must not determine that Sexual Harassment occurred.

The Adjudicator shall not draw inferences regarding a Party or witness' credibility based on the Party or witness' status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a Party or witness would or should act under the circumstances.

c. Outcome Letter

The Adjudicator will simultaneously issue a written decision (the "Final Outcome Letter") to both the Complainant and the Respondent, via the Equal Opportunity and Title IX Coordinator, as part of the Final Investigative Report or, where there is a hearing, within seven (7) calendar days following the hearing. The Final Outcome Decision Letter (which may be the Final Investigation Report where there is no hearing) will include:

- A description of the allegations that lead to the hearing, as potentially constituting Prohibited Conduct;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination;
- A statement of factual findings supporting the determination;
- A statement of the conclusions regarding the application of his Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- An explanation of the disciplinary sanctions imposed on the Respondent, if any;
- A statement of whether remedies designed to restore or preserve equal access to HWS' education program or activity will be provided to the Complainant. Specific remedies will be identified in the Hearing Outcome Decision Letter only to the extent those remedies directly affect the Respondent. The Equal Opportunity and Title IX Coordinator is responsible for implementing such remedies;

- The procedures and permissible bases for the Complaint and Respondent to appeal.
- The Adjudicator may consult with the Equal Opportunity and Title IX Coordinator or their designee for questions regarding policy, procedures, and/or prohibited conduct.

d. Post-Finding Written Impact and Mitigation Statements

Where there is a finding of responsibility on one or more of the charges, the Adjudicator will review any written statements to the Equal Opportunity and Title IX Coordinator for consideration by the Adjudicator in determining an appropriate sanction. The Complainant may submit a written statement describing the impact of the Prohibited Conduct and expressing a preference about the sanction(s) to be imposed. The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanction(s) imposed. The parties may submit their statements to the Equal Opportunity and Title IX Coordinator prior before the conclusion of the Evidence Review and Response period or, where there is to be a hearing, within 24 hours after the close of the hearing. The Equal Opportunity and Title IX Coordinator will ensure that each of the parties has an opportunity to review any statement submitted by the other party.

The Equal Opportunity and Title IX Coordinator will only provide such statement(s) to the Adjudicator upon a finding of responsibility.

e. Determination of Disciplinary Sanctions

1. Disciplinary Sanctions for Students

Where a student is found responsible for a violation of this Policy, the Equal Opportunity and Title IX Coordinator will designate an appropriate administrator from HWS to provide a record of disciplinary history to the Adjudicator. The Adjudicator will then determine the appropriate sanction(s). Sanctions imposed by HWS include, but are not limited to:

- Probation;
- Conduct warning;
- Suspension;
- Expulsion/permanent separation;
- Organizational sanctions including probation and rescinding recognition; and/or
- Any other educational and/or remedial measures to eliminate, prevent, or address the Prohibited Conduct.

In general:

- Any student who is found responsible for Sexual Assault (involving sexual intercourse) will receive a sanction ranging from suspension to expulsion.
- Any student who is found responsible for Sexual Assault (involving sexual contact) will receive a sanction ranging from conduct warning to expulsion.
- Any student who is found responsible for any other form of Prohibited 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 Adjudicator may broaden or lessen any range of recommended sanctions based on mitigating or aggravating circumstances. A single sanction or a combination of sanctions may be issued.

In considering the appropriate sanction within the recommended outcomes, the Adjudicator will consider the following factors:

- The Respondent's prior discipline history;
- How HWS has 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 HWS community;
- Any written impact and mitigation statements submitted by the parties;
- Whether the Respondent has accepted responsibility;
- Whether the Respondent is reasonably likely to engage in the conduct in the future;
- Location of the incident;

- Whether the conduct reflects collusion with other individuals;
- The need to deter similar conduct by others; and
- Any other mitigating or aggravating circumstances.

Absent justifications, if the Respondent has engaged in the same or similar conduct in the past, the sanction will be greater than the previous sanction.

The Adjudicator will also consider other remedial actions that may be taken to address any Prohibited Conduct and prevent its recurrence, including strategies to protect the Complainant and any witnesses from retaliation; 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 Prohibited Conduct.

2. *Disciplinary Sanctions for Non-Student Employees*

Sanctions may vary depending on the totality of the circumstances and potentially range from a written warning to the termination of the Respondent's employment. Any procedures relating to termination of a tenured faculty member will be subject to review under the relevant provisions of the Faculty Bylaws and Procedures

f. Appeals

The Complainant and the Respondent may appeal the Dismissal of Formal Complaint and/or the Final Outcome. An appeal must be submitted electronically to the Equal Opportunity and Title IX Coordinator in writing within seven (7) calendar days of receiving the Final Outcome Letter. The grounds for appeal are:

1. Procedural error that would change the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. The Equal Opportunity and Title IX Coordinator, Investigator(s), or Adjudicator(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter;
4. The sanction is grossly disproportionate the conduct committed.

The appeal shall consist of a plan, concise, and complete written statement outlining the grounds for the appeal and should not exceed 10 pages single spaced, including any attachments. Appeals that do not meet these standards may be returned to the party for correction. Upon receipt of an appeal, the Equal Opportunity and Title IX Coordinator will notify both parties and provide them with the written statement of appeal. Each party has an opportunity to respond in writing to the appeal. Any response to the appeal must be submitted to the Equal Opportunity and Title IX Coordinator within three (3) calendar days from the receipt of the appeal. The appeal will be conducted in an impartial manner by an Appeal Panel, consisting of the Vice President for Campus Life (or their designee), the Provost (or their designee) and the Director of Human Resources (or their designee). The Title IX Coordinator will inform the parties regarding the composition of the Panel at the outset of the appeal and provide information on how to challenge the composition of the Panel for bias or conflict of interest. In any 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 Panel will consider an appeal only on the basis of one or more of the four (4) grounds for appeal stated above, and will make a determination based on supporting information provided in the written request for appeal, the written response of both parties, the Final Investigative Report, and the written record of the original hearing including the Final Outcome Letter. The Appeal Panel may also seek clarification on certain issues from the Equal Opportunity and Title IX Coordinator. The Appeal Panel may decide to:

5. Dismiss the appeal for failing to state a ground(s) for appeal;
6. Send the case back to the original Adjudicator for reconsideration of previously unavailable relevant evidence;
7. In the event of a finding of bias, designate a new Investigator and/or Adjudicator, not previously involved in the matter, to oversee a new investigation and/or hearing of the claim;
8. Make a final determination either upholding or altering the sanction decision of the Adjudicator, which may include but is not limited to:

- i. Adding or removing one or more sanctions;
- ii. Increasing or decreasing the duration of one or more sanctions;
- iii. Alteration of deadlines related to sanction completion.

The submission of an appeal stays any sanctions for the pendency of an appeal. Generally, the Appeal Panel will communicate the result of the appeal to the Complainant and the Respondent within ten (10) calendar days from the date of the submission of all appeal documents by both parties. Appeal decisions are final, any issues that could have been raised in the Appeal that are not raised are forever and permanently waived and may not be raised in any other context including litigation, and after any appeal is resolved, the decision is not subject to further review.

g. Timeframe for Completion of Investigation and Adjudication; Extension for Good Cause

HWS' goal is that the period from commencement of an investigation through resolution (finding and sanction, if any) will not exceed ninety (90) calendar days. As described in III(A)1 of this policy, "Timing of Investigation," HWS will seek to complete the investigation within sixty (60) calendar days from the date a Formal Complaint is filed. This timeframe is not guaranteed or achievable in every case and may be extended for good cause.

Extensions and Delays: HWS allows for the reasonable extension of the above timeframe on a case-by-case basis for good cause. The Equal Opportunity and Title IX Coordinator will provide written notice to both parties that includes the reason for the extension or delay. Such reasons may include, among other things: additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for breaks or vacations in the HWS calendar, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons.

h. Transcript Notation

After a finding of responsibility for crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), the Equal Opportunity and Title IX Coordinator will direct the Colleges' Registrar to make a notation on the Respondent's transcript stating the student was "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." Notations following an expulsion are permanent. One year after the conclusion of the suspension, Respondents who have been suspended may appeal to the Appeals Panel, requesting the removal of the notation. A Respondent may appeal the notation regarding suspension no more than one time per year by writing to the Equal Opportunity and Title IX.

i. Release of Documents

As to matters involving students, under federal privacy laws, the Final Investigation Report, statements of one party that are shared with the other party in the resolution process, and any documents prepared by HWS, including documents by or for the adjudicators in advance of the Hearing, constitute education records which may not be disclosed outside of the proceedings, except as may be required or authorized by law. Complainants and Respondents are free to discuss their own experiences; however, the investigative reports and evidence obtained during any investigation, and any information used during a hearing, are confidential and may not be shared by parties or their advisors, unless specifically permitted by law. Access to materials will be provided only by a secure method and parties and advisors are not permitted to make copies of any documents shared or make use of the documents outside of the Title IX and Sexual Misconduct Policy process except as permitted by law.

j. Records

The Equal Opportunity and Title IX Coordinator will maintain records under this Policy consistent with federal and state law.

Appendix B to Hobart and William Smith Colleges' Title IX and Sexual Misconduct Policy

EXPECTATIONS OF DECORUM

The following Expectations of Decorum are to be observed in the hearing, during cross-examination questioning, and as applicable to any meetings associated with resolution of a Formal Complaint; and applied equally to all parties and Advisors. The Equal Opportunity and Title IX Coordinator will have the authority to remove from the meeting, process, or hearing an involved party and/or Advisors who do not comply with the Expectations of Decorum.

1. Questions must be conveyed in a neutral tone.
2. Parties and Advisors will refer to other parties, witnesses, Advisors, and institutional staff using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning.
3. No party may act abusively or disrespectfully during the hearing toward any other party or to witnesses, Advisors, or Adjudicators.
4. While an Advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
5. The Advisor may not yell, badger, or physically "lean in" to a party or witness' personal space. Advisors may not approach the other party or witnesses without obtaining permission from the Adjudicator.
6. The Advisor may not use profanity or make irrelevant ad hominem attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact, they may not include accusations within the text of the question.
7. The parties may not ask repetitive questions. This includes questions that have already been asked by the Adjudicator, the Advisor in cross-examination, or the party or Advisor in direct testimony. When the Adjudicator determines a question has been "asked and answered" or is otherwise not relevant, the parties must move on.
8. Parties and Advisors may take no action at the hearing that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.
9. Parties and Advisors may take no action at the hearing that a reasonable person would interpret to be an attempt to influence the impartiality of a member of the hearing panel or the appeals panel prior to, and/or during the course of, the conduct proceeding.

Appendix C to Hobart and William Smith Colleges' Title IX and Sexual Misconduct Policy
TITLE IX POLICIES RELATED TO PREGNANCY AND PARENTING

HWS does not discriminate based on parental, family, or marital status and pregnancy or related conditions. HWS is prohibited from making pre-employment inquiries regarding a job applicant's marital status. HWS will treat pregnancy and related conditions in the same manner as other temporary medical conditions. HWS must provide employees with reasonable time to express breast milk or breastfeed.

The following protections and policies apply to students.

1. Students who are pregnant or have related conditions cannot be required to provide supporting documentation or medical certification of ability to participate in a program or activity unless such certification is necessary, is required of all participating students, and is not used as a basis for discrimination;
2. When a student, or a person who has a legal right to act on behalf of a student, informs any employee of a student's pregnancy or related condition, that employee must inform the student or that person of the Equal Opportunity and Title IX Coordinator's contact information and duties and the Equal Opportunity and Title IX Coordinator will provide the student or person acting on their behalf them with HWS' nondiscrimination obligations, provide HWS' notice of non-discrimination
3. HWS must ensure the availability of a clean, private lactation space that is not a bathroom, permit a voluntary leave of absence, provide reasonable modifications to policies or practices, and allow voluntary access to any separate or comparable program or activity; reasonable modifications made for pregnancy or related conditions must be made in consultation with the student and will be approved unless such modifications would fundamentally alter HWS' educational program or activity. Reasonable modifications may include, but are not limited to:
 4. Breaks during class to express breast milk, to breastfeed, or to attend to health needs associated with pregnancy or related conditions including eating, drinking, or using the restroom
 5. Intermittent absences to attend to medical appointments;
 6. Changes in schedule or course sequences
 7. Extensions for coursework, rescheduling of test and examinations, or other academic accommodations
 8. Changes to physical space or supplies, such as access to a larger desk, footrest, or elevator access