



HOBART AND WILLIAM SMITH  
COLLEGES

# TITLE IX

## KNOW YOUR OPTIONS

*Guide to Title IX &  
Sexual Misconduct Policy  
Responsibilities, Rights, and Resources*

2020-2021

**OFFICE OF TITLE IX PROGRAMS AND COMPLIANCE (TITLE IX OFFICE)  
603 S. MAIN STREET, SENECA ROOM ANNEX (LAKE LEVEL)  
(315) 781-3922**

**VISIT [WWW2.HWS.EDU/TITLE-IX/](http://WWW2.HWS.EDU/TITLE-IX/)  
FOR ADDITIONAL RESOURCES**

CONTENT WARNING: This guide addresses subject matter related to sexual misconduct that some may find sensitive or upsetting.

## CONTACT INFORMATION

### **Office of Campus Safety**

Campus Services Building, Northeast  
corner of Medbery parking lot  
315-781-3656/3657  
315-781-3333 (emergency)

### **Counseling Center**

91 St. Clair Street  
315-781-3388 (M-F 9am-5pm)

### **F.F. Thompson Hospital**

350 Parrish St. Canandaigua, NY  
14424  
585-396-6000

### **Geneva Police Department**

235 Exchange St. Geneva, NY 14456  
315-828-6771  
911 (emergency)

### **Hubbs Health Center**

119 St. Clair Street  
315-781-4580

### **Geneva General Hospital**

North Main and North Streets  
Geneva, NY 14456  
315-787-4500

### **New York State Police Campus Sexual Assault Victims Unit**

844-845-7269 (24/7 hotline)  
315-539-3976 (Troop E, Zone 2)

### **Safe Harbors of the Finger Lakes**

1 Franklin St. Geneva, NY 14456  
315-781-1093  
800-247-7273 (24/7 crisis hotline)  
315-305-2063 (24/7 text helpline)

### **Office for Spiritual Engagement**

St. John's Chapel, Room 22  
315-781-3671  
chapel@hws.edu  
Abbe Center  
315-679-6924

### **Office of Title IX Programs and Compliance (Title IX Office) 603**

S. Main St. Seneca Room Annex  
(lake level)  
315-781-3922  
titleix@hws.edu

### **NexGen Employee Assistance Program**

800-327-2255

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# *Guide to Title IX and Sexual Misconduct Policy Responsibilities, Rights, and Resources*

Hobart and William Smith Colleges are committed to fostering a welcoming, safe, non-discriminatory and harassment-free educational, living, and working environment for all members of the HWS community. The Colleges do not discriminate on the basis of sex in any of their education or employment programs or activities. This brochure is provided for three distinct reasons:

**RESPONSIBILITIES:** Read this brochure to guide you through the behavioral expectations set by the Title IX and Sexual Misconduct Policy and learn the consequences for committing Prohibited Conduct.

**RIGHTS:** Learn the rights of survivors of Prohibited Conduct and of persons accused of Prohibited Conduct that are protected by the title IX and Sexual Misconduct Policy as well as by state and federal law.

**RESOURCES:** Use this brochure to find support services if you, a friend, or a coworker experience Prohibited Conduct. You can also find a PDF of this brochure as well as additional resources and information on the Title IX website.

## **REPORTING RIGHTS**

You have the right to make a report of sexual misconduct to Hobart and William Smith Colleges' Office of Campus Safety, local law enforcement, and/or New York State Police or choose not to report; to report the incident to Hobart and William Smith's Office of Title IX Programs and Compliance; to be protected by the Colleges from retaliation for reporting an incident; and to receive assistance and resources from the Colleges.

***Title IX and  
Sexual Misconduct Policy***  
**STUDENT BILL OF RIGHTS**

**All Hobart and William Smith students have the right to:**

- Make a report (or decline to report) to local law enforcement and/or state police;
- Have disclosures of sexual assault, intimate partner violence, stalking and all other forms of Prohibited Conduct treated seriously;
- Make a decision about whether or not to disclose a crime or violation and participate in the complaint resolution process and/or criminal justice process free from pressure by the institution;
- Participate in a process that is fair, impartial and provides adequate notice and a meaningful opportunity to be heard;
- Be treated with dignity and to receive from the Colleges courteous, fair and respectful health care and counseling services, where available;
- 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;
- Describe the incident to as few representatives of the Colleges as practicable and not be required to unnecessarily repeat a description of the incident;
- Be protected from retaliation by the Colleges, any student, the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- Access to at least one level of appeal of a determination;
- Be accompanied by an Advisor of choice who may assist and advise a Complainant, or Respondent during any meetings and hearings under this policy and procedures; and
- Exercise civil rights and practice of religion without interference by the investigative, criminal justice or complaint resolution process of the Colleges.

## **WHAT IS TITLE IX?**

Title IX is a federal civil rights law that prohibits colleges and universities that receive federal financial assistance from discriminating 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), 20 U.S.C §1681, et seq.

## **WHAT DOES THE TITLE IX OFFICE DO?**

The Title IX Office provides educational programming and activities to prevent the occurrence of prohibited conduct and to facilitate proactive bystander intervention. We provide training to the HWS community regarding the Title IX and Sexual Misconduct Policy, individuals' rights and responsibilities, and the resources and support available if a person experiences prohibited conduct.

We receive reports and complaints of prohibited conduct, process these in accordance with the Title IX and Sexual Misconduct Policy, and provide fair, impartial and equitable service to all parties. We respond promptly to eliminate prohibited conduct, prevent its recurrence and remedy its effects. The Colleges take appropriate disciplinary action against students, faculty and staff found to have violated the policy.

The Title IX Office also provides support services such as referrals, academic accommodations, no contact orders, facilitation of change in housing, transportation and safety measures in Title IX related matters. We can help if an individual wants to report to law enforcement or needs assistance accessing a forensic rape exam.

## **ROLE OF TITLE IX COORDINATOR**

The Colleges have designated a Title IX Coordinator to oversee compliance with Title IX. The Title IX Coordinator ensures training and education of the Colleges' community members, oversees all reports of Prohibited Conduct and coordinates the Colleges' response and/or resolution to all reports. The Title IX Coordinator is a neutral party and is available to meet with any community member as needed to discuss available resources, options and supports.

## **WHAT CAN YOU EXPECT WHEN INTERACTING WITH THE TITLE IX OFFICE?**

Anyone who reports or files a complaint of prohibited conduct, serves as a witness in an investigation, has had a complaint filed against them, or is seeking more information, can expect to be treated with respect, support, care, and concern. The Title IX Office uses prompt and equitable procedures to assess, investigate, and adjudicate complaints of prohibited conduct. The investigation of an alleged incident of prohibited conduct is a neutral fact-gathering process.

# *Title IX and Sexual Misconduct Policy*

Hobart and William Smith Colleges expect all members of our community to foster a safe, welcoming, and respectful campus. Students, faculty, and staff are charged with collaborating to create a non-discriminatory and harassment-free educational, living and working environment that supports all members as they strive to lead lives of consequence.

The Colleges' Title IX and Sexual Misconduct Policy prohibits specific forms of behavior that violate Title IX and other applicable state and federal laws. A "complainant" is the individual who reports or is reported as having experienced sexual misconduct. The Colleges recognize that individual complainants may also choose to self-identify as a victim, or a survivor, but for the purposes of this brochure we utilize the term complainant. A "respondent" is the individual accused of committing Prohibited Conduct.

Prohibited Conduct refers to specifically defined behaviors prohibited by the Title IX and Sexual Misconduct Policy.

- Title IX Sexual harassment
- Title IX Sexual assault
- Title IX Dating Violence
- Title IX Domestic Violence
- Title IX Stalking
- Non-Title IX Sexual harassment
- Gender-based harassment
- Non-Title IX Sexual Assault
- Non-Title IX Intimate partner violence
- Sexual exploitation
- Physical assault
- Non-Title IX Stalking
- Retaliation
- Discrimination

For more information about the Colleges' Title IX Sexual Misconduct Policy and definitions of the prohibited conduct listed above, visit [www2.hws.edu/title-ix](http://www2.hws.edu/title-ix)

## **CONSEQUENCES OF VIOLATING TITLE IX AND SEXUAL MISCONDUCT POLICY**

Following a determination that a person or organization has violated the Title IX and Sexual Misconduct Policy, the Colleges will impose sanctions as appropriate. Possible sanctions include:

- Probation
- Conduct warning
- Suspension
- Expulsion/permanent separation
- Organizational sanctions including probation and rescinding recognition
- Any other education and/or remedial measures to eliminate, prevent, or address the prohibited conduct

## TRANSCRIPT NOTATION

**After a finding of responsibility** at the close of the claim, the 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.

If a student Respondent voluntarily withdraws and/or the Colleges withdraw 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 the Colleges. The Title IX Coordinator will direct the Colleges' Registrar to make a notation "withdrew with conduct charges pending" on the academic transcript of any student who withdraws from the Colleges while under investigation for Prohibited Conduct prior to the conclusion of a Formal Resolution.

## KEY CONCEPTS FROM THE TITLE IX AND SEXUAL MISCONDUCT POLICY

### AFFIRMATIVE CONSENT

**Affirmative Consent (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. **Consent is required to be obtained regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.**

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. Consent is active, not passive.

### INCAPACITATION

**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.

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 judgments; and
- capacity to appreciate the nature and the quality of the act.

Although every individual may manifest signs of incapacitation differently, signs may include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence.

*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 and/or other drugs is not a defense for a person accused of a violation of the Title IX and Sexual Misconduct Policy.**

To learn more about Affirmative Consent and Incapacitation, visit [www2.hws.edu/title-ix](http://www2.hws.edu/title-ix)

## **HWS AMNESTY POLICY**

The health and safety of every student is of utmost importance. The Colleges recognize that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that prohibited conduct occurred may be hesitant to report incidents due to fear of potential consequences for their own conduct or the conduct of others. The Colleges strongly encourage students to immediately report prohibited conduct to the Colleges or law enforcement.

A bystander acting in good faith, or a Complainant acting in good faith, that discloses any incident of prohibited conduct to the Colleges or to law enforcement will not be subject to disciplinary action under the Colleges' 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 the 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.

# *Know Your Options If You Experience Prohibited Conduct*

There are many resources available. We will assist you in connecting with them as needed, and we will support you as you make decisions that are best for you.

## **REPORTING RIGHTS**

There are multiple channels for reporting Prohibited Conduct. Individuals may report Prohibited Conduct to law enforcement, to the Colleges, to both or to neither. These reporting options are not exclusive. Complainants may simultaneously pursue criminal and disciplinary action through the Colleges.

The Colleges will support Complainants in understanding and assessing their reporting options. The information below details the paths and options available to HWS community members as they choose how to proceed after an experience of prohibited conduct.

## **CONFIDENTIAL REPORTING VS. PRIVATE REPORTING**

<b>CONFIDENTIAL REPORTING</b>	<b>PRIVATE REPORTING</b>
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. <b>Indicated by an *</b>	Private reports of Prohibited Conduct will only be shared with limited employees of the Colleges who “need to know” to assist in the review, investigation and resolution of the complaint and implementation of remedial and protective measures.

### **PATH 1: SEEKING SUPPORT**

**\*Safe Harbors of the Finger Lakes**, a local rape crisis and intimate partner violence support agency, provides free, confidential crisis counseling, as well as support groups and other services. Safe Harbors' 24/7 crisis hotline is **1-800-247-7273**. Students can also text Safe Harbors' 24/7 helpline at **315-305-2063**.

**\*HWS Counseling Center (315-781-3388)** offers free and confidential services to students. During the academic year, an on-call counselor is available 24/7. With an after-hours mental health emergency, call Campus Safety at (315) 781-3333 to reach the counselor on call. Campus Safety will not require an individual to disclose their name to be connected to the counselor on call.

**\*Office for Spiritual Engagement (315-781-3671) and Abbe Center (315-679-6924)** staff members serve as confidential support resources.

**Title IX Office (315-781-3922)** depending on the situation and student, may offer remedial and protective measures including:

- Academic accommodations (schedule changes, potential assignment extensions, etc.)
- Change in housing arrangement
- No contact orders
- Other measures to ensure safety

**\*NexGen Employee Assistance Program (EAP)** Employees may seek confidential counseling for themselves and their families via NexGen Employee Assistance Program. The hotline number is (800) 327-2255. For more information, visit [www.nexgeneap.com](http://www.nexgeneap.com), company ID: 8956.

## **PATH 2: SEEKING TREATMENT**

**\*F.F. Thompson Hospital (585-396-6000)** located at 350 Parrish St., Canandaigua, NY is the closest hospital to Geneva where an individual can receive a forensic sexual assault examination by an on-call Sexual Assault Nurse Examiner (also known as “SANE Nurse”).

Individuals may have a support person of their choosing present throughout the forensic exam. In addition, advocates from Safe Harbors of the Finger Lakes are available to accompany and support 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.

**\*Hubbs Health Center (315-781-3600)** located at 119 St. Clair Street offers services designed for all minor injuries and unexpected illness. There is no fee to students for a general visit to Hubbs.

**\*Geneva General Hospital (315-787-4500)** located at the intersection of North Main St. and North St. in Geneva, is the closest emergency room. A Sexual Assault Nurse Examiner is NOT available at GGH.

## **PATH 3: SEEKING TO DISCLOSE**

### **Anonymously**

Any individual may make an anonymous report concerning an act of Prohibited Conduct, including through the Colleges' Sexual Misconduct Online 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 Title IX Coordinator and Campus Safety for review and appropriate response and action.

Individuals who would like to make an anonymous report are encouraged to call the 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, the Colleges' ability to take action in response to an anonymous report may be limited.

### **Title IX Office**

The Colleges encourage individuals who have experienced, have knowledge of, or have witnessed Prohibited Conduct to make a report to the Colleges. Individuals can disclose to the Title IX Office in person at 603 S. Main St. (below the Seneca Room) by email at [titleix@hws.edu](mailto:titleix@hws.edu) or by phone at 315-781-3922.

The Colleges 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 Colleges' community.

### **Law Enforcement**

Individuals can disclose to law enforcement, including the Geneva Police Department and/or the New York State Police Campus Sexual Assault Victims Unit. Law enforcement can be contacted at any time.

### **Actual Knowledge Employee**

An Actual Knowledge Employee is an employee who upon receipt of allegations of prohibited conduct s required to make an immediate report to the Title IX Coordinator or Deputy Title IX Coordinator including all known details about an incident. Actual Knowledge Employees will, to the fullest extent possible, maintain the privacy of an individual's information.

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. The Colleges' obligation to respond under this Policy is only triggered upon notice to an Actual Knowledge Employee.

## **PATH 4: SEEKING ACTION**

Behaviors that violate the Colleges' Title IX and Sexual Misconduct Policy may also violate criminal and/or civil law. People who experience sexual misconduct can choose to seek a violation of the Title IX and Sexual Misconduct Policy, pursue criminal charges, both of those options, or neither.

### **File a Formal Complaint for a Title IX and Sexual Misconduct Policy Violation**

The Title IX Office receives and processes complaints of the Title IX and Sexual Misconduct Policy, and uses prompt and equitable procedures to assess, investigate, and adjudicate complaints of sexual misconduct, per policy. Generally, individuals may pursue informal or formal resolution.

### **Investigation for Criminal Charges**

To pursue criminal charges via law enforcement, an individual can seek assistance from the Title IX Office and/or Safe Harbors, or contact law enforcement directly.

- Geneva Police Department  
235 Exchange St. Geneva, NY 14456  
315-828-6771
- New York State Police Campus Sexual Assault Victims Unit  
844-845-7269 (24/7 hotline)

## **PATH 5: EXPLORING OPTIONS**

Each individual experiences sexual misconduct differently. Some individuals may be ready to seek support and treatment, and/or to disclose, while other people may need more time to decide what is best for them. Individuals are not obligated to report their personal experiences of sexual misconduct to the Title IX Office or to law enforcement. Individuals who are in the process of exploring their options are encouraged to seek support from confidential reporting resources.

# *You Can Make a Difference*

*Members of the HWS community are responsible for each other and we each have a role to play in preventing sexual misconduct.*

**Respect and communicate with each other.** Ask questions, discuss expectations, and get affirmative consent from the other person(s) before engaging in sexual activity.

**Speak up** and consider challenging victim-blaming statements and statements that are discriminatory based on someone's sex, sexual orientation, gender identity, and/or gender expression.

**Check in** if you witness something that doesn't seem right. Simply asking "is everything okay?" can make an impact on the outcome of a situation. Asking a question and checking in is better than ignoring a situation.

## **BYSTANDER INTERVENTION**

One of the most effective ways to engage in social change is to be an **active bystander** and intervene when you witness a potentially dangerous situation. Consider these tips for intervening:

- **Assess the situation:** determine if it is safe for you to intervene
- **Take action:** use direct or indirect actions to interrupt the situation
- **Involve others:** recruit friends or trusted resources to assist you
- **Call Campus Safety or law enforcement** if the situation becomes dangerous
- **Get help:** remember the Colleges' Amnesty Policy, do not hesitate to call for help if you or someone else is at risk

## HOW TO HELP A FRIEND

*If a friend shares their experience with you, consider the following suggestions:*

**SUPPORT** - Let your friend know you are there to support them. Your friend has made the choice to share their experience with you based on trust. Be supportive and non-judgmental as you listen to them. Remember that what they experienced was not their fault.

**BELIEVE** - The most supportive step you can take for a friend is to believe them. Take the information seriously, but remember that it is not your job to assess the situation or to investigate the facts.

**REFER** - The Colleges' and the Geneva community have many support resources available. Refer to pages 10-11 of this brochure for information about confidential reporting options and private reporting options. You can also make an anonymous call to Title IX to get more information for you or your friend.

**CARE FOR YOURSELF** - Counseling services are also available for someone who is supporting a survivor. The process of supporting a survivor may be stressful and having someone to talk with confidentially may help someone stay balanced.



HOBART AND WILLIAM SMITH  
COLLEGES