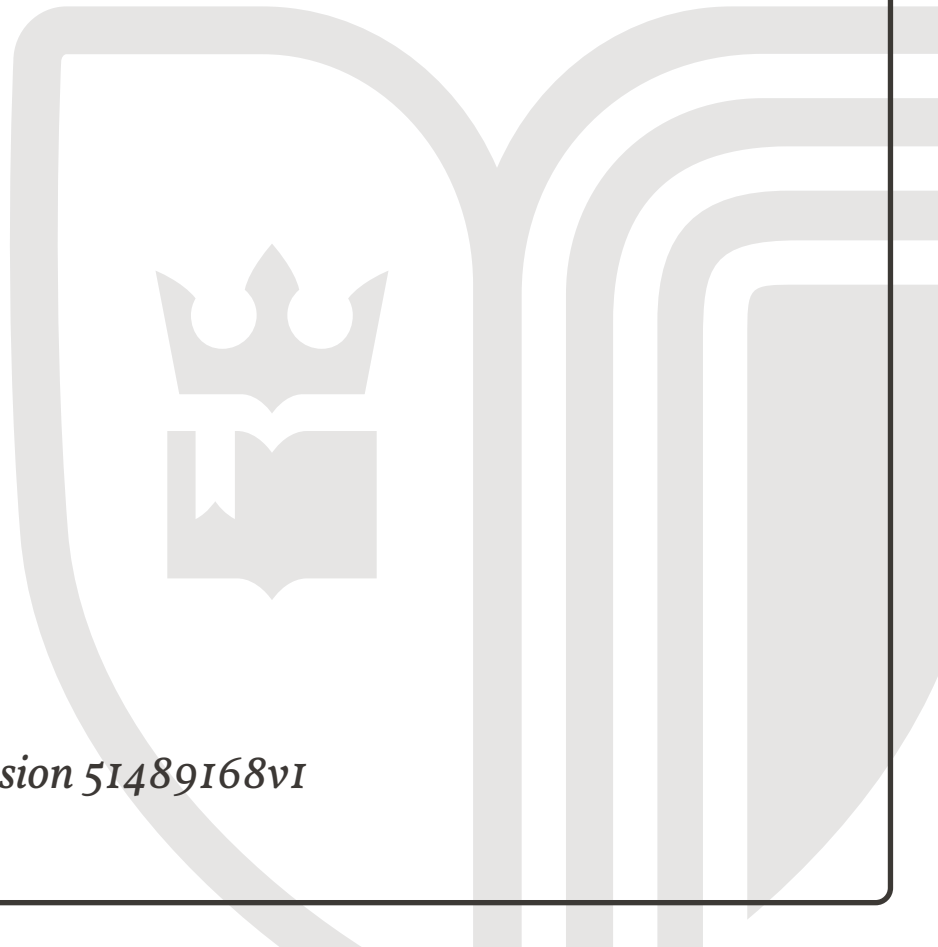




GENEVA
COLLEGE

TITLE IX POLICY

3/30/2022



Version 51489168v1

I. Purpose

On May 19, 2020, the United States Department of Education published revised regulations related to the implementation of Title IX.¹ Geneva College (the “College”) is obligated to abide by these regulations. This Policy sets forth the College’s definition of and approach to addressing Sexual Harassment in accordance with the revised Title IX regulations. This Policy is also in furtherance of the College’s commitment to fostering an environment that is free from sexual misconduct, including Sexual Harassment, consistent with the College’s obligations under applicable law. In support of that commitment, the College continues to take steps to increase awareness of such Sexual Harassment and eliminate its occurrence on campuses.

II. Scope

This Policy applies to the College’s administration of allegations that constitute Sexual Harassment (as defined by Title IX). Allegations that do not constitute Sexual Harassment may fall under another College policy or section of the Student Code of Conduct. All College faculty, staff, and students and all College campuses are governed by this Policy.

When constitutionally protected speech is concerned, the College will apply this Policy in a manner consistent with the First Amendment.

III. Definitions

¹ Title IX is codified at 20 U.S.C. § 1681 et seq. The implementing regulations are codified at 34 C.F.R. 106 et seq. The revised regulations can be found here: <https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>

- A. Complainant: An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.
- B. Education Program or Activity: locations, events, or circumstances, occurring within the United States, over which the College exercises substantial control of both the Respondent and the context in which the Sexual Harassment occurs. This includes any building owned or controlled by a student organization that is officially recognized by the College.
- C. Formal Complaint: A document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the College investigate and/or adjudicate the allegation(s) of Sexual Harassment.
- D. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.
- E. Sexual Harassment: Conduct on the basis of sex occurring in the United States and occurring in or related to a College Education Program or Activity that satisfies one or more of the following: (1) An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct; (2) 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 College's Education Program or Activity; or (3) Sexual assault, dating violence, domestic violence, or stalking.
- F. Supportive Measures (formerly interim measures): Non-disciplinary, non-punitive individualized services designed to restore or preserve equal access to an Education Program or Activity, offered as appropriate and as reasonably available, to the Complainant or the Respondent (without unreasonably burdening the other party) before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.

IV. Policy

The College is committed to maintaining a community free from Sexual Harassment, as defined above. The College does not discriminate on the basis of sex in employment, or in its Education Programs or Activities. Sexual Harassment is a form of sexual discrimination. Such Sexual Harassment violates this Policy, and generally also violates federal, state or local laws. Furthermore, all members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

When an allegation of Sexual Harassment is reported, the College will act to end the conduct, prevent its recurrence, and remedy the effects on both individuals and the College community, in accordance with the accompanying Procedures. This Policy and the accompanying Procedures Guide shall serve as the only internal College forum of resolution and appeal of complaints of Sexual Harassment as defined under Title IX.

Allegations of sexual misconduct which do not constitute Sexual Harassment as defined by Title IX, are subject to and should be analyzed under other College policy/procedure.

A. Consent

Consent is an informed decision made freely and actively by all parties to engage in mutually acceptable sexual activity. Consent is given by clear words or actions. Consent may not be inferred from silence, passivity, or lack of resistance alone. Existence of a current or previous dating, marital, and/or sexual relationship is not sufficient to constitute consent to future or additional sexual activity. Consent to one type of sexual activity does not imply consent to other types of sexual activity. Consent can be withdrawn at any time by any one party.

Someone who is unconscious, asleep, or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition, and individuals under the age of sixteen (16), cannot give consent. Consent cannot be obtained by force, intimidation, threat, coercion, isolation, or confinement. Agreement obtained under such conditions does not constitute consent. A person's use of alcohol and/or other drugs does not eliminate responsibility to obtain consent.

B. Prohibited Conduct

Sexual Harassment contradicts the College's values and principles and such conduct will not be tolerated by the College. This Policy prohibits all forms of Sexual Harassment under Title IX, which includes sexual assault, dating violence, domestic violence, and stalking. Further information about these forms of prohibited conduct are outlined below.

- i. Sexual assault (as defined in 20 U.S.C. 1092(f)(6)(A)(v)) is any sexual act, or attempted sexual act, directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Sexual acts include:
 - Rape: The 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 victim.
 - Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.
- ii. Dating violence (as defined in 34 U.S.C. 12291(a)(10)) is violence, including, but not limited to, sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence does not include acts covered under the definition of domestic violence.
- iii. Domestic violence (as defined in 34 U.S.C. 12291(a)(8)) is a felony or misdemeanor crime of violence committed by:
- a current or former spouse or intimate partner of the victim;
 - a person with whom the victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
 - any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- iv. Stalking (as defined in 34 U.S.C. 12291(a)(30)) is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or, suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

C. Responsibility for Coordination of College's Efforts Relating to Title IX

The College's Title IX Office is responsible for coordinating the College's responsibilities, including publication of and education about this Policy, response to reports of Sexual Harassment in violation of this Policy, coordinating the College's response to reports and applicable investigations, identifying and addressing any patterns of behavior or systemic problems, and keeping a record of all relevant documentation in accordance with the Procedures Guide.

The College's Title IX Office is managed by the Title IX Coordinator. The Title IX Coordinator's main responsibility is to manage College efforts to comply with Title IX, 20 U.S.C. § 1681 et seq. Such efforts include covering all allegations of sexual discrimination, including Sexual Harassment, in violation of this Policy, overseeing the College's response to alleged Title IX violations and other sexual misconduct, and identifying and addressing any patterns of behavior or systemic problems. The Title IX Coordinator and their specific designees are the only College officials with the authority to institute corrective measures under Title IX on behalf of the College.

D. Responsible Employee

In support of the College's commitment to foster an environment that is free from sexual misconduct, including Sexual Harassment, the College requires all employees, with very limited exceptions as stated herein, to report such misconduct, including Sexual Harassment, to the Title IX Coordinator, or their designee. Generally, all College employees are responsible employees unless their job requires professional confidentiality, as in the case of mental health counselors, physicians, nurses, and clergy. A responsible employee is a College employee who has the duty to report incidents of sexual violence or other sexual misconduct, or who a community member could reasonably believe has this duty. Other than the Title IX Coordinator and their specific designees, responsible employees do not have the authority to institute corrective measures under Title IX on behalf of the College, but they are required to report any incident of sexual misconduct, including Sexual Harassment, to the Title IX Office. If a responsible employee receives a report of sexual misconduct, the employee shall inform the reporting individual that the employee is required to report the incident to the Title IX Office, but that the Title IX Office will keep the information confidential to the extent it is permitted to do so by law and ensure that it is only shared with those who have a need to know.

E. Reporting and Initial Review

This section outlines how an individual can make a report of Sexual Harassment and, also establishes the processes related to the initial review of such reports which determine whether the College will pursue the allegations under this Policy or another related College policy.

i. Reporting Sexual Harassment

Individuals may/can make a report of Sexual Harassment directly to the Student Development Office by any means of communication outlined in the Procedures Guide. Individuals can also contact the Title IX Office to request Supportive Measures, additional resources, and/or to learn more about the internal investigative process. Complaints can be made anonymously via the MyGeneva homepage.

Individuals can also report any criminal conduct directly to law enforcement by calling Campus Safety ((724) 846-9632 or (724) 847-5678), by calling the Beaver Falls Police non-emergency number ((724) 846-7000), or, in the case of emergency, by dialing 911. The initiation of any College proceedings does not preclude the possibility of criminal charges. Parallel College and criminal proceedings are not uncommon.

While reports of sexual misconduct and discrimination, including Sexual Harassment, can be made as described above and through the channels outlined in the Procedures Guide, and Supportive Measures can and will be offered upon any such report, the adjudication processes under Title IX as provided for in this Policy and the Procedures Guide (whether through the formal process or informal resolution) require the submission of a Formal Complaint by either the Complainant or the Title IX Coordinator, or their designee. This Formal Complaint must be a written, signed document alleging Sexual Harassment against a Respondent. If a report of Sexual Harassment is submitted anonymously or if a report is submitted by an individual not wishing to participate as a Complainant in any process permitted under this Policy and the Procedures Guide, that report may still be investigated and adjudicated, as appropriate, through a Formal Complaint signed by the Title IX Coordinator. As discussed throughout this Policy and further below, the requirements herein only pertain to this Policy. Please consult other relevant College policies for the requirements of those policies.

Upon receipt of a report of sexual misconduct and discrimination, including Sexual Harassment, Supportive Measures will be offered. Under extraordinary circumstances, the College may remove a Respondent prior to adjudication of any Formal Complaint under this Policy if, after undertaking an individualized safety and risk analysis, the College determines that the Respondent poses an immediate threat to the physical health or safety of any individual arising from the allegations of Sexual Harassment. When issuing an emergency removal, the College will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

ii. Initial Inquiry

When any report alleging discrimination, sexual misconduct, or Sexual Harassment is received by the Title IX Coordinator, the report will be reviewed, and a determination will be made as to whether the allegations, if true, constitute Sexual Harassment under this Policy or if the allegations constitute any other form of sexual misconduct or discrimination under one or more separate College policies. If it is determined that the report involves a potential violation of College policy, the process of reviewing, investigating, and adjudicating the allegations will proceed in accordance with the appropriate College policy and procedure.

F. Adjudicating Formal Complaints of Sexual Harassment under Title IX

When a Formal Complaint is submitted, both the Complainant and Respondent will receive notice of the allegations and the identity of the other party. All parties will be treated equitably throughout the adjudication of a Formal Complaint under this Policy. The filing of an inquiry into a Formal Complaint does not imply the allegations are assumed to be true. The College will not make any presumptions about the allegations prior to investigation and/or adjudication.

The Respondent is presumed not responsible under this Policy until a determination regarding responsibility is made, but there is no burden on the Complainant to prove the allegations, rather, the burden is on the College to evaluate and adjudicate the allegations. The College will use the Preponderance of the Evidence Standard for adjudicating all Formal Complaints under this Policy. Preponderance of the Evidence means it is more likely than not that the alleged conduct occurred.

Matters may proceed by Informal Resolution or through the Formal Grievance Process, as discussed below. Whether a matter proceeds through Informal Resolution or the Formal Grievance Process, the College will treat all parties equitably and will work in good faith to resolve matters in a reasonably prompt timeframe. Note: delays or extensions of time throughout this process may be necessary for good cause.

i. Informal Resolution

The Informal Resolution process provides parties with a broad range of options for resolving a Formal Complaint. This process is provided as an optional alternative to participating in the full Formal Grievance Process outlined below. The Informal Resolution process is completely voluntary and is intended to provide parties flexibility to agree upon an appropriate process to address the allegation(s).

If the Complainant wishes to pursue an Informal Resolution and the Respondent agrees, the matter will proceed through the Informal Resolution process as further described in the Procedures Guide. Either party can, at any time prior to final adjudication of the Formal Complaint, elect to stop participating in the Informal Resolution process, at which point the matter will proceed under the Formal Grievance Process. Informal Resolutions are not permitted in matters involving allegations of Sexual Harassment where the Complainant is a College Student and the Respondent is a College employee.

ii. Formal Grievance Process

If the matter proceeds through the Formal Grievance Process, the College will investigate and adjudicate the matter consistent with the process outlined in the Procedures Guide. An Investigator will be assigned and will be responsible for investigating the Formal Complaint and completing an Investigative Report that fairly summarizes the relevant evidence. At this point the parties will have the opportunity to review and respond in writing. Upon finalization of the report, the matter will proceed to a live hearing (whether in-person or virtually), which is overseen by a Decision-Maker, who will make a determination as to whether the Respondent is responsible for violating this Policy. The Procedures Guide provides details regarding this hearing.

The Decision-Maker will reach this determination, only after completing an objective evaluation of all relevant evidence. Parties will be notified of the Decision-Maker's determination consistent with the process provided in the Procedures Guide

iii. Appeals

If a matter proceeds through the Formal Grievance Process, once a determination of responsibility is made, either party may appeal the outcome consistent with the process outlined in the Procedures Guide. Note: appeals are not available related to final adjudications through the Informal Process.

iv. Sanctions and Remedies

If a Respondent is found responsible for violating this Policy (whether through the Informal Resolution Process or the Formal Grievance Process), sanctions may be issued as appropriate, consistent with the information provided in the Procedures Guide. Sanctions will not go into effect until the grievance process is complete, including, as applicable, until the time for an appeal of the outcome runs out or until a determination is made regarding any such appeal.

In addition to sanctions, upon a determination that a Respondent is responsible for violating this Policy, certain remedies designed to restore or preserve equal access to an Education Program or Activity may be provided to the Complainant.

G. Retaliation

The College strictly prohibits retaliation against anyone involved as a party or witness in the process of adjudicating a Formal Complaint under this Policy. Retaliation includes, but is not limited to, acts on behalf of the College or any person designed to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

The College will investigate all acts of reported retaliation. Complaints alleging retaliation may be filed according to the College grievance procedures as found in the Procedures Guide. All reports supported by evidence, regardless of the outcome of the underlying Formal Complaint of Sexual Harassment, will be referred for disciplinary action and resolution under other applicable College policies/procedures.

The exercise of rights protected under the First Amendment do not constitute retaliation prohibited under this section.

H. Confidentiality

The College will keep confidential the identity of any Complainant, any Respondent, and any witness, as well as the investigation and adjudication of matters under this Policy except as may be permitted by the Family Education Rights and Privacy Act (FERPA), or as required by law or to carry out the purposes of Title IX, including to conduct any investigation, hearing, or judicial proceeding arising thereunder.

I. Record Keeping

The College must maintain records related to Title IX investigations for a minimum of seven (7) years beginning on the date of a document's creation. Specific documents that must be maintained include: investigations/determinations, recordings/transcripts, sanctions, remedies, appeals, informal resolutions, training materials, and supportive measures. Such documents will be maintained by the Title IX Office.

J. Education and Training

All staff, faculty, graduate teaching and research assistants, officers, faculty administrators, staff administrators, research associates, and post-doctoral scholars and associates at the College are required to complete discrimination and harassment prevention and response training upon hire, and at least once every four years thereafter. All staff individuals involved with addressing and/or resolving reports of Title IX violations (other than advisors) will be required to complete at least 8 hours of training.

In addition, the Title IX Office will provide additional training and educational resources relating to this Policy, including examples and frequently asked questions, to all members of the College community, including faculty, staff, and students. This training will focus on increasing awareness of the Policy, the definition of Sexual Harassment, who among College employees is a responsible employee, and the different means for reporting violations of this Policy.

V. Governance & Responsibilities

- A. **Decision-Maker:** responsible for (1) conducting the live hearing for the Formal Grievance Process, including by enforcing the rules of decorum, permitting relevant cross-examination of parties and witnesses, making relevancy determinations related to questions and evidence, and directly question the parties and witnesses as necessary, and (2) making a determination of responsibility and issuing sanctions, as appropriate, and summarizing the process and findings in a written report, all consistent with the process outlined in the Procedures Guide.
- B. **Investigator:** responsible for investigating Formal Complaints through the Formal Grievance Process and completing an Investigative Report fairly summarizing the relevant evidence, all consistent with the process outlined in the Procedures Guide.
- C. **The Title IX Office:** responsible for coordinating the College's responsibilities, including publication of and education about this Policy, response to reports of Sexual Harassment in violation of this Policy, coordinating the College's response to reports and applicable investigations, identifying and addressing any patterns of behavior or systemic problems, and keeping a record of all relevant documentation in accordance with the Procedures Guide.

D. Title IX Coordinator: College employee who coordinates College efforts to comply with responsibilities under Title IX, 20 U.S.C. § 1681 et seq., covering all allegations of sexual discrimination in violation of this Policy, who oversees the College's response to alleged Title IX violations, and who identifies and addresses any patterns of behavior or systemic problems.

VI. Contact Information/Public Accessibility

This Policy is posted <https://www.geneva.edu/about-geneva/titleix/>

Members of the College Community are encouraged to contact the Title IX Coordinator for assistance with understanding their obligations related to compliance under this Policy. The Title IX Coordinator can be contacted by telephone at (724) 847-6641 or by email at jrswank@geneva.edu.

Geneva College Campus Safety
Lower Level – Rapp Hall
(724) 846-9632 (Mobile)
(724) 847-5678 (Office)

For information on how to file a complaint under this Policy, please refer to the Procedures Guide.

VII. Related Authorities

College Title IX Procedures Guide

Student Code of Conduct

Employee Handbook