GENEVA COLLEGE

SEXUAL MISCONDUCT EQUITY RESOLUTION PROCESS FOR ALL FACULTY, STAFF, AND STUDENTS

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Updated: August 2016
POLICY: SEXUAL MISCONDUCT AND DISCRIMINATION

As used in this document, the term “reporting party” refers to the person impacted by alleged discrimination. The term “responding party” refers to the person who has allegedly engaged in discrimination.

Applicable Scope

Geneva College affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the College's Sexual Misconduct Equity Resolution Process (SMERP), as detailed below. When the responding party is a member of the College community, the SMERP is applicable regardless of the status of the reporting party who may be a member or non-member of the campus community, including students, student organizations, faculty, administrators, staff, guests, visitors, campers, etc. Geneva College reserves the right to act on incidents occurring on-campus or off-campus, when the conduct could have an on-campus impact or impact on the educational mission of the College.

Title IX Coordinator

The Vice President of Student Development serves as the Title IX Coordinator and oversees implementation of the College’s policy on sex harassment and nondiscrimination. The Title IX Coordinator heads the Title IX Team and acts with independence and authority free of conflicts of interest. To raise any concern involving a conflict of interest by the Title IX Coordinator in relation to the SMERP, contact the College President at 724-847-6610. To raise concerns regarding a potential conflict of interest with any other administrator involved in the SMERP, please contact the Title IX Coordinator.

Inquiries about and reports regarding this policy and procedure may be made internally to:

Mr. Brian Jensen, Vice President of Student Development & Title IX Coordinator
Office of Student Development
Student Center, 3200 College Avenue, Beaver Falls, Pennsylvania 15010
(724) 847-6641
bcjensen@geneva.edu

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Reports of discrimination, harassment and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the College’s jurisdiction, the ability to investigate, respond and provide remedies may be more limited:

1) Report directly to the Title IX Coordinator (see contact information above);

2) Report online, using the reporting form posted at www.geneva.edu/about-geneva/titleix/report;

and/or

3) Report directly to any responsible employee\(^1\) of the college.

All reports are acted upon promptly while every effort is made by the College to preserve the privacy of reports. Such reports may also be anonymous through the website listed above. To the extent possible, anonymous reports will be investigated to determine if remedies can be provided. Additionally, all responsible employees of the College are designated as mandated reporters and will share a report with the Title IX Coordinator promptly. Confidentiality and mandated reporting is addressed more specifically below. Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the College President at 724-847-6610.

**Jurisdiction**

This policy applies to behaviors that take place on the campus, at College-sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator determines that the off-campus conduct affects a substantial College interest. A substantial College interest is defined to include any violation of the Title IX policy that also:

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\(^1\) The College refers to the Office of Civil Rights definition of a “responsible employee” being any employee: (a) who has the authority to take action to redress sexual harassment/misconduct; (b) who has been given the duty of reporting incidents of sexual harassment/misconduct or any other misconduct by students to the Title IX Coordinator or other appropriate designee; or (c) who a student reasonably believes has this authority or duty.
a) Constitutes a criminal offense as defined by law. This includes, but is not limited
to, single or repeat violations of any local, state or federal law;

b) Where it appears that the responding party may present a danger or threat to
the health or safety of self or others;

c) Impinges upon the rights, property or achievements of self or others or
significantly breaches the peace and/or causes social disorder;

and/or

d) Is detrimental to the educational interests of the College.

1. College Policy on Nondiscrimination

Geneva College does not discriminate against any employee, applicant for employment,
student or applicant for admission on the basis of race, color, sex, disability, national and
ethnic origin in the administration of its educational policies, admissions policies,
scholarships and loan programs, and athletic and other school-administered programs.

When brought to the attention of the College, any such discrimination will be appropriately
addressed and remedied by the College. Non-members of the campus community who
engage in discriminatory actions within College programs or on College property are not
under the jurisdiction of this policy, but can be subject to actions that limit their access
and/or involvement with College programs as the result of their misconduct. All vendors
serving the College through third-party contracts are subject by those contracts to the
policies and procedures or their employers.

2. Sexual Harassment

The Department of Education’s Office for Civil Rights (OCR), the Equal Employment
Opportunity Commission (EEOC) and the Commonwealth of Pennsylvania regard sexual
harassment as a form of sex discrimination and, therefore, as an unlawful discriminatory
practice. Geneva College has adopted the following definition of sexual harassment, in
order to address the special environment of an academic community, which consists not
only of employer and employees, but of students as well.²

² Also of relevance is the Office of Civil Rights 2001 statement on sexual harassment, “Revised Sexual Harassment Guidance:
Harassment Of Students By School Employees, Other Students, Or Third Parties, Title IX,” which can be found at:
http://www2.ed.gov/legislation/FedRegister/other/2001-1/011901b.html, the April, 2011 Dear Colleague Letter on Campus
Sexual Violence, which can be found at: http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf
and OCR’s Questions and Answers on Title IX and Sexual Violence, which can be found at:
Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other unwanted visual, verbal, written, online, and/or physical conduct of a sexual nature which is directed toward a person because of his/her sex.\(^3\)

Anyone experiencing sexual harassment in any College program is encouraged to report it immediately to the Title IX Coordinator. Remedies, education and/or training will be provided in response.

Sexual harassment creates a hostile environment, and may be disciplined when it is:

1) Sufficiently severe or pervasive, and objectively offensive, such that it:
   i. Has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in or benefit from the College’s educational, employment, social and/or residential program.
   ii. Is based on power differentials (\textit{quid pro quo}), creates a hostile environment or retaliation.

A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe or persistent, and objectively offensive such that it interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.\(^4\)

The College reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status. Addressing such behaviors may not result in the imposition of discipline under College policy, but may be addressed through respectful confrontation, remedial actions, education and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the

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\(^3\) Some examples of possible Sexual Harassment include:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Explicit sexual pictures are displayed on the exterior of a residence hall door.
- A supervisor expresses romantic feelings toward an employee, continually gawks in the employee’s direction, and will not stop even though the employee explains that the feelings are not mutual.
- A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.

\(^4\) This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department Of Education Office For Civil Rights, Racial Incidents and Harassment against Students at Educational Institutions Investigative Guidance. The document is available at: \url{http://www.ed.gov/about/offices/list/ocr/docs/race394.html}. 

\[http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf\]
Department of Human Resources and students should contact the Director of Residence Life.

3. Sexual Misconduct

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, Geneva College has defined categories of sex discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, the College considers Non-Consensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, the College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any act of sexual misconduct or other sex-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person. Violations include:

A. Sexual Harassment (as defined in section two (2) above)

B. Non-Consensual Sexual Intercourse

Non-Consensual Sexual Intercourse is any sexual intercourse, however slight, with any object by a person upon another person that is without consent and/or by force. Sexual intercourse includes:

1. Vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

C. Non-Consensual Sexual Contact

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5 The use of force in non-consensual sexual intercourse and contact-based incidents is not “worse” than the subjective experience of violation of someone who is a victim of sexual intercourse or sexual contact without consent. However, the use of physical force constitutes a stand-alone non-sexual offense as well, as it is our expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct allegation, but allegations under the code for the additional assaultive behavior.
Non-Consensual Sexual Contact is any intentional sexual touching, however slight, with any object by a person upon another person that is without consent and/or by force. Sexual touching includes:

1. Intentional contact with the breasts, groin, or genitals, mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
2. Any other bodily contact in a sexual manner.

D. Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Non-Consensual Sexual Contact. Examples of Sexual Exploitation include, but are not limited to:

1. Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
2. Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent).
3. Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection.
4. Administering alcohol or drugs (such as “date rape” drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
5. Exposing one’s genitals in non-consensual circumstances.
6. Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Pennsylvania state definition of sexual assault: a person engaging in sexual intercourse or deviate sexual intercourse with another person without their consent. The defendant may have committed statutory sexual assault if the victim was under 16 years of age, and the defendant is more than four years older than the victim, and they were not married to each other at the time of the offense. Pennsylvania also has a separate charge titled “indecent assault.” Indecent assault is similar to sexual assault in some ways. It involves indecent contact with the victim, including the victim’s contact with the defendant’s seminal fluid, urine, or feces for the purpose of arousing sexual desire in either the victim or defendant, and it is done without the victim’s consent, forcibly or under threat of force, or performed under some severe incapacity of the victim (i.e. unconsciousness, mental incapacity, intoxication of the victim, youth of the victim). This is applicable to criminal prosecutions for sexual assault in Pennsylvania, but may differ from the definition used on campus to address policy violations.
E. Consent, Force, and Incapacitation

As a Christian college and consistent with the position of the Reformed Presbyterian Church of North America, the college lifts up the Christian ideal of marriage between a man and a woman and contends that all sexual intimacy shall be within the bounds of such marriage. Faculty, staff, or students that choose to engage in a consensual sexual relationship outside the bounds of such a marriage could be subject to discipline or termination of employment. In adherence to federal guidelines and for our students’ understanding, the following definitions are provided.

**Consent:** Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

**Force:** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent (“Have sex with me or I’ll hit you.” “Okay, don’t hit me, I’ll do what you want.”).

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7 The Pennsylvania state definition of consent is: Children less than 13 years of age cannot grant consent to sexual activity. Teens between the ages of 13 and 15 can consent to sexual activity with peers within a four-year age range. People aged 16 and older can legally consent to sexual activity with anyone they choose, as long as the other person does not have authority over them as defined in Pennsylvania’s institutional sexual assault statute. This is applicable to criminal prosecutions for sex offenses in the state of Pennsylvania, but may differ from the definition used on campus to address policy violations. [Included for Clery/VAWA Sec. 304 compliance purposes]
Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (i.e., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

**Examples of lack of consent:**

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being “a prude.” Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a "hand job" (hand to genital contact). Amanda would never had done it but for Bill’s incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn’t want it, she could have left. **Bill is responsible for violating the college Non-Consensual Sexual Contact policy. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him.** Where sexual
activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.

2. Jim is a junior at the university. Beth is a sophomore. Jim comes to Beth’s residence hall room with some mutual friends to watch a movie. Jim and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jim and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jim verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jim takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jim to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? Jim would be held responsible in this scenario for Non Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jim, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jim had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one’s partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.

3. Kaci and John are at a party. Kaci is not sure how much John has been drinking, but she is pretty sure it’s a lot. After the party, she walks John to her room, and John comes on to Kaci, initiating sexual activity. Kaci asks him if he is really up to this, and John says yes. Clothes quickly come off, and they end up in John’s bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kaci thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kaci is having a good time, though she can’t help but notice that John seems pretty groggy and passive, and she thinks John may have even passed out briefly during the sex, but she does not let that stop her. When Kaci runs into John the next day, she thanks him for the wild night. John remembers nothing, and decides to make a report to the Dean. This is a violation of the Non-Consensual Sexual Intercourse Policy. Kaci should have known that John was incapable of making a rational, reasonable decision about sex. Even if John seemed to consent, Kaci was well aware that John had consumed a large amount of alcohol, and Kaci thought John was physically ill, and that he passed out
during sex. Kaci should be held accountable for taking advantage of John in his condition.

Note: A lack of consent or the act of force can present itself between members of the opposite sex as well as between members of the same sex.

F. Intimate Partner Violence

Intimate partner violence (also known as relationship, dating, or domestic violence) is a pattern of behavior in an intimate relationship used to establish power and control over another person through fear and intimidation. Relationship violence can be verbal, emotional, and/or physical.

Examples

1. A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the Intimate Partner Violence policy.
2. An ex-girlfriend shames her ex-boyfriend, threatening to blackmail him if he doesn't give the ex another chance. Psychological abuse is a form of Intimate Partner Violence.
3. Married employees are witnessed in the parking garage, with one partner slapping and scratching the other in the midst of an argument.

G. Stalking

The Commonwealth of Pennsylvania defines stalking as the course of conduct or repeated acts without authorization with intent to place in reasonable fear or cause substantial emotional distress. The College considers the effect upon a victim and categorizes stalking in two forms:

1. Stalking 1:
   - A course of conduct
   - Directed at a specific person
   - On the basis of actual or perceived membership in a protected class
   - That is unwelcome, AND
   - Would cause a reasonable person to feel fear

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Pennsylvania law defines domestic abuse as knowingly, intentionally or recklessly causing bodily injury of any kind, causing fear of bodily injury of any kind, assault (sexual or not sexual), rape, sexually abusing minor children, or knowingly engaging in a repetitive conduct toward a certain person (i.e. stalking) that puts them in fear of bodily injury. These acts can take place between family or household members, sexual partners or those who share biological parenthood in order to qualify as domestic abuse.
2. Stalking 2:
   - Repetitive and Menacing
   - Pursuit, following, harassing and/or interfering with the peace and/or safety of another

Examples of Stalking

1. A student repeatedly shows up at another student's on-campus residence, always notifying the front desk attendant that they are there to see the resident. Upon a call to the resident, the student informs residence hall staff that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment requesting that they go out on a date together (Stalking 1).

2. A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the tutor thanked the student and stated that it was not necessary and would appreciate if the gift deliveries stop. The student then started leaving notes of love and gratitude on the tutor’s car, both on-campus and at home. Asked again to stop, the student stated by email: “You can ask me to stop, but I’m not giving up. We are meant to be together, and I’ll do anything necessary to make you have the feelings for me that I have for you.” When the tutor did not respond, the student emailed again, “You cannot escape me. I will track you to the ends of the earth. We are meant to be together” (Stalking 2).

H. Other Applicable College Policies

Other Geneva College policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party’s sex.

5. Retaliation

Retaliation is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing an allegation or for assisting in providing information relevant to a claim of harassment is a serious violation of College policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Geneva College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Examples of Retaliation:
1. Scott, a student-athlete, files an allegation against a coach for sexual harassment; the coach subsequently cuts the student-athlete’s playing time in half without a legitimate justification.

2. A faculty member complains sex discrimination when it comes to pay within her department; the Department Chair then revokes his prior approval allowing her to attend a national conference, citing the faculty member’s tendency to “ruffle feathers.”

3. A student from a student organization participates in a sexual misconduct hearing against the responding individual – also a member of the same student organization; the student is subsequently removed as a member of the student organization because he participated in the hearing.

6. Remedial Action

Upon notice of alleged discrimination, Geneva College will implement initial remedial, responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and/or medical services, academic support, living arrangement adjustments, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.

The College will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation.

The College will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the College’s ability to provide the accommodations or protective measures.

Procedures for handling reported incidents are fully described below.

7. Confidentiality and Reporting of Offenses Under This Policy

All College responsible employees are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials – thereby offering options and advice without any obligation to inform an outside
A. Confidential Reporting

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

1. On-campus licensed professional counselors and staff
2. On-campus health service providers and staff
3. Off-campus (non-employees):
   a. Licensed professional counselors
   b. Local rape crisis counselors
   c. Domestic violence resources
   d. Local or state assistance agencies
   e. Clergy

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours. College employees listed above will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client or patient.

B. Formal Reporting Options

All responsible employees have a duty to report, unless they fall under the “Confidential Reporting” (on-campus) section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Coordinator. Employees must promptly share all details of the reports they receive. Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal College action.

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Note that the College’s ability to remedy and respond to a
reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the Sexual Misconduct Equity Resolution Process.

In cases indicating pattern, predation, threat, weapons and/or violence, the College will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow the College to honor that request, the College will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by College when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: Division of Student Development, Human Resources Office, Campus Security, and the Student Care Team. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party’s rights and privacy. Additionally, anonymous reports can be made by victims and/or third parties using the online reporting form posted at www.geneva.edu/about-geneva/titleix/report. Note that these anonymous reports may prompt a need for the institution to investigate.

Failure of a non-confidential responsible employee, as described in this section, to report an incident or incidents of sex harassment or discrimination of which they become aware is a violation of College policy and can be subject to disciplinary action for failure to comply.

8. Federal Timely Warning Obligations

Parties reporting sexual misconduct should be aware that under the Clery Act, College administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The College will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

9. False Allegations
Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

10. Amnesty for Reporting Party and Witnesses

The College community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to college officials, and that witnesses come forward to share what they know. To encourage reporting, Geneva College works within its amnesty policy for reporting parties and witnesses regarding minor policy violations related to the incident.

Peer Help: Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a victim to appropriate personnel). The College pursues a policy of amnesty for students who offer help to others in need. While policy violations cannot be overlooked, the College will work within the amnesty policy for those who offer their assistance to others in need.

11. Parental Notification (allegations involving students)

The College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The college may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the College will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The College also reserves the right to designate which college officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act.

12. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to Campus Security regarding the type of
incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in Geneva's Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: Student Development, Campus Security, local police, coaches, athletics staff, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.
PROCESS FOR ALLEGATIONS OF SEXUAL MISCONDUCT AND DISCRIMINATION

Geneva College will act on any formal or informal allegation or notice of violation of this policy that is received by the Title IX Coordinator or a member of the administration, faculty, or other responsible employee.

The procedures described below apply to all allegations of sexual misconduct involving students, staff or faculty members. These procedures may also be used to address collateral misconduct occurring in conjunction with sexual conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty and employee handbooks.

Overview

Upon notice to the Title IX Coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the policy has been violated. If so, the College will initiate an investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether the policy has been violated. If so, the College will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

1. Reporting Misconduct

Any member of the community, guest or visitor who believes that the there has been a violation of the College’s Sexual Misconduct Policy should contact the Title IX Coordinator.

It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. Any member of the community, including visitors, may contact Campus Security to make a report. These individuals will in turn notify the Title IX Coordinator. The College website also includes a reporting form at www.geneva.edu/about-geneva/titleix/report which may serve to notify the Title IX Coordinator directly and possibly initiate the resolution process.

Any responsible employee receiving reports of a potential violation of College policy are expected to promptly contact the Title IX Coordinator, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy: specific information
on any allegations received by any party will be reported to the Title IX Coordinator, but, subject to the College’s obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, Geneva College will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

2. Preliminary Inquiry

Following receipt of notice or a report of misconduct, the Title IX Coordinator engages in a preliminary inquiry to determine if there is reasonable cause to believe the sexual misconduct policy has been violated. The preliminary inquiry is typically one to three (1-3) business days in duration. This inquiry may also serve to help the Title IX Coordinator to determine if the allegations evidence violence, threat, pattern, predation and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the Title IX Coordinator may respect a reporting party’s request for no action, and will investigate only so far as necessary to determine appropriate remedies. As necessary, the College reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

In cases where the reporting party wishes to proceed or the College determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator will direct a formal investigation to commence and the allegation will be resolved through one of the processes discussed briefly here and in greater detail below:

- Conflict Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution
- Administrative Resolution – resolution by a trained administrator

The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Title IX Coordinator. Conflict Resolution may only occur if selected by all parties, otherwise the Administrative Resolution Process applies.

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9 If circumstances require, the President or Title IX Coordinator may designate another person to oversee the process below, should an allegation be made against the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.
If conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

Once a formal investigation is commenced, the Title IX Coordinator will provide written notification of the investigation to the responding party at an appropriate time during the investigation. The College aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties as appropriate.

If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator determines that there is no reasonable cause to believe that policy has been violated, the process will end unless the reporting party requests that the Title IX Coordinator makes an extraordinary determination to re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator.

3. Interim Remedies/Actions

The Title IX Coordinator may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations. These remedies may include, but are not limited to:

- Referral to counseling and health services
- Education to the community
- Altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired))
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

The College may interim suspend a student, employee or organization pending the

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10 Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official College records; or emailed to the parties’ College-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The reporting party is typically copied on such correspondence.
completion of the investigation and procedures, particularly when in the judgment of the Title IX Coordinator the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the option to meet with the Title IX Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause as to why the suspension should not be implemented. The Title IX Coordinator has sole discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to College housing and/or the College campus/facilities/events. As determined by the Title IX Coordinator, this restriction can include classes and/or all other College activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution’s ability to provide the interim actions or protective measures.

4. Investigation

Once the decision is made to commence a formal investigation, the Title IX Coordinator appoints appropriate and trained personnel to conduct the investigation (typically using a team of two investigators), usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within 10-14 days, though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

_Involvement of Local Law Enforcement:_ The College may undertake a short delay of its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The College will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. Geneva College action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. See the College’s cooperative agreement with the Beaver Falls Police Department.
All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

The investigators will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with campus partners (e.g.: the Title IX Coordinator), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Assist the Title IX Coordinator with an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy.
  - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Prepare the notice of investigation on the basis of the preliminary inquiry;
- Meet with the reporting party to finalize their statement, if necessary;
- If possible, provide written notification to the parties prior to their interviews that they may have the assistance of a silent advocate of their choosing present for all meetings attended by the advisee;
- Provide reporting party and responding party with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses.
- Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Once the report is complete, a summary of the report is shared with the parties for their review and comment. Each party has two (2) business days to submit a response in writing. The investigators may incorporate feedback from the parties as appropriate;
- Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Investigators and/or the Title IX Coordinator finalize and present the findings to the parties, without undue delay between notifications;

At any point during the investigation, if it is determined there is no reasonable cause to believe that Geneva College policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the Geneva College’s investigation and the Sexual Misconduct Equity Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or the Sexual Misconduct Equity Resolution Process constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation do not have the ability to offer evidence later during the appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Sexual Misconduct Equity Resolution Process proceedings.

5. Advisors

Each party is allowed to have an advisor of their choice present with them for all SMERP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually otherwise not involved in the resolution process, such as serving as a witness, co-reporting party, or co-responding party. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is
available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community. The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The College cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the College an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The College expects that the parties will wish to share documentation related to the allegations with their advisors. The parties must present expressed written consent before the College is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by Geneva College. The College may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the College’s privacy expectations.
The College expects an advisor to adjust their schedule to allow them to attend College meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advisor’s inability to attend. The College will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process, and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notification to investigators if they change advisors at any time.

6. Resolution

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with Geneva College policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

A. Conflict Resolution

Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal Administrative Resolution to resolve conflicts. The Title IX Coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, a trained administrator will facilitate a dialogue with the parties to an effective resolution, if possible. The Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX Coordinator believe that it could be beneficial. Mediation will not be used in cases of sexual violence. It is not necessary to pursue conflict resolution first in order to pursue Administrative Resolution, and any party participating in conflict resolution can stop that process at any time and request a shift to Administrative Resolution.
B. Administrative Resolution

Administrative Resolution can be pursued for any behavior that falls within this policy at any time during the process.

In Administrative Resolution, the investigator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the policy on sexual misconduct. Accordingly, investigations should be conducted with as wide a scope as necessary.

Any evidence that the investigator believes is relevant and credible may be considered, including history and pattern evidence. The investigator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the investigator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators will survey information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

The investigators will not meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties.

The investigators will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation process. If the responding party admits responsibility, the Title IX Coordinator will render a determination that the individual is in violation of College policy.

If the responding party admits the violation, or is found in violation, the investigators, in consultation with the Title IX Coordinator and others as
appropriate, will determine an appropriate sanction or responsive action, will implement it, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence and remedy the effects of the discriminatory conduct.

The investigators will inform the parties of the final determination within three (3) business days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official Geneva College records; or emailed to the parties’ College-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which Geneva College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law. The notice will also include information on when the results are considered by Geneva College to be final, any changes that occur prior to finalization, and any appeals options that are available.

C. Sanctions

Factors considered when determining a sanction/responsive action may include:

1. The nature, severity of, and circumstances surrounding the violation;
2. An individual’s disciplinary history;
3. Previous allegations or allegations involving similar conduct;
4. Any other information deemed relevant by the investigators;
5. The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation;
6. The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation;
7. The need to remedy the effects of the discrimination, harassment and/or retaliation on the reporting party and the community.

1. Student Sanctions Examples

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- **Warning:** A formal statement that the behavior was unacceptable and a warning that further infractions of any College policy, procedure or directive will result in more severe sanctions/responsive actions.
- **Probation:** A written reprimand for violation of the Student Handbook, providing for more severe disciplinary sanctions in the event that the
student or organization is found in violation of any College policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.

- **Suspension**: Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria is met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at Geneva College. This sanction may be noted as a Conduct Suspension on the student’s official transcript, at the discretion of the Title IX Coordinator.

- **Expulsion**: Permanent termination of student status, revocation of rights to be on campus for any reason or attend Geneva College-sponsored events.

- **Withholding Diploma**: Geneva College may withhold a student’s diploma for a specified period of time and/or deny student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.

- **Revocation of Degree**: Geneva College reserves the right to revoke a degree awarded from the College for fraud, misrepresentation or other violation of College policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

- **Organizational Sanctions**: Deactivation, de-recognition, loss of all privileges (including College registration), for a specified period of time.

- **Other Actions**: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

2. **Employee Sanctions**

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include

- **Warning – Verbal or Written**
- **Performance Improvement Plan/Management Process**
- **Required Counseling**
- **Required Training or Education**
- **Probation**
- **Loss of Annual Pay Increase**
- **Loss of Oversight or Supervisory Responsibility**
- **Demotion**
- **Suspension with pay**
o Suspension without pay
o Termination
o Other Actions: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

D. Withdrawal or Resignation While Charges Pending

Students: Geneva College does not permit a student to withdraw if that student has an allegation pending for violation of this policy. Should a student decide to leave and/or not participate in the SMERP, the process will nonetheless proceed in the student’s absence to a reasonable resolution and that student will not be permitted to return to Geneva College unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any College responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

E. Request for Appeal

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within three (3) business days of the delivery of the written finding of the investigation. Any party may request the right to appeal the findings and/or sanctions only under the grounds described below.

Any party may request an appeal, but appeals are limited to the following grounds:

1. A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
2. To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
3. The sanctions imposed fall outside the range of sanctions the College has designated for this offense and the cumulative record of the responding party.

The Title IX Coordinator will review the appeal request(s) and confer with other Title IX trained personnel. The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above,
and such a decision is final. The party requesting appeal must show that the
grounds for an appeal request have been met, and the other party or parties may
show the grounds have not been met, or that additional grounds are met. The
original finding and sanction are presumed to have been decided reasonably and
appropriately. When any party requests an appeal, the Title IX Coordinator will
share the appeal request with the other party(ies), who may file a response
within three (3) business days and/or bring their own appeal on separate
grounds. If new grounds are raised, the original appealing party will be
permitted to submit a written response to these new grounds within three (3)
business days. These response or appeal requests will be shared with each party.

Where the Title IX Coordinator finds that at least one of the grounds is met by at
least one party, additional principles governing the appeal process will include the
following:

1. Decisions by the Title IX Coordinator are to be deferential to the original
decision, making changes to the finding only where there is clear error and to the
sanction/responsive action only if there is a compelling justification to do so.
2. Appeals are not intended to be full re-hearings (de novo) of the allegation. In
most cases, appeals are confined to a review of the written documentation or
record of the investigation, and pertinent documentation regarding the
grounds for appeal. An appeal is not an opportunity for the Title IX Coordinator
to substitute their judgment for that of the original investigator(s) merely because
they disagree with its finding and/or sanctions.
3. Appeals granted based on new evidence should normally be remanded to the
investigator(s) for reconsideration. Other appeals may be remanded at the
discretion of the Title IX Coordinator.
4. Sanctions imposed as the result of Administrative Resolution are implemented
immediately unless the Title IX Coordinator or designee stays their
implementation in extraordinary circumstances, pending the outcome of the
appeal.
   i. For students: Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute
   exigent circumstances, and students may not be able to participate in those activities during their appeal.
5. The Title IX Coordinator will incorporate the results of any remanded
grounds, and render a written decision on the appeal to all parties within
three (3) days of the resolution of the appeal or remand.
6. Once an appeal is decided, the outcome is final: further appeals are not
permitted, even if a decision or sanction is changed on remand.
7. All parties will be informed in writing within three (3) days of the outcome of the decision, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.

8. In rare cases where a procedural [or substantive] error cannot be cured by the original investigator(s) (as in cases of bias), the Title IX Coordinator may recommend a new investigation and/or Administrative Resolution process, including new investigators. The results of a remand cannot be appealed. The results of a new Administrative Resolution process can be appealed, once, on any of the three applicable grounds for appeals.

9. In cases where the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

F. **Long-Term Remedies/Actions**

Following the conclusion of the Sexual Misconduct Equity Resolution Process and in addition to any sanctions implemented, the Title IX Coordinator may utilize long-term remedies or actions to stop the harassment or discrimination, remedy its effects and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to an employee assistance program
- Education to the community
- Permanently altering the housing situation of an the responding party (resident student or resident employee (or the reporting party, if desired))
- Permanently altering work arrangements for employees
- Providing campus escorts
- Climate surveys
- Policy modification
- Providing transportation accommodations
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, long-term remedies may also be provided even when the responding party is found not responsible.
The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution’s ability to provide the actions or protective measures.

G.  Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions
All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Title IX Coordinator. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from Geneva College and may be noted on a student’s official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

H.  Records
In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator indefinitely in the Title IX Coordinator’s database.

I.  Statement of the Rights of the Parties
Statement of the Reporting Party’s rights:

1. The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to Geneva College officials;
2. The right to be informed in advance of any public release of information regarding the incident;
3. The right not to have any personally identifiable information released to the public, without their consent;
4. The right to be treated with respect by College officials;
5. The right to have College policies and procedures followed without material deviation;
6. The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
7. The right not to be discouraged by Geneva College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
8. The right to be informed by College officials of options to notify proper law enforcement authorities, including local police, and the option to be assisted by
campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well;

9. The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus Security and other campus officials;

10. The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;

11. The right to a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;

12. The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
   a. Change of an on-campus student’s housing to a different on-campus location;
   b. Assistance from College support staff in completing the relocation;
   c. Transportation accommodations;
   d. Arranging to dissolve a housing contract and pro-rating a refund;
   e. Exam (paper, assignment) rescheduling;
   f. Taking an incomplete in a class;
   g. Transferring class sections;
   h. Temporary withdrawal;
   i. Alternative course completion options.

13. The right to have the College maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution’s ability to provide the accommodations or protective measures;

14. The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;

15. The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;

16. The right to be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness’s identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);

17. The right not to have irrelevant prior sexual history admitted as evidence;
18. The right to regular updates on the status of the investigation and/or resolution;
19. The right to have reports addressed by investigators who have received annual sexual misconduct training;
20. The right to preservation of privacy, to the extent possible and permitted by law;
21. The right to meetings and/or interviews that are closed to the public;
22. The right to petition that any College representative in the process be recused on the basis of demonstrated bias or conflict-of-interest;
23. The right to bring a victim advocate or advisor of the reporting party’s choosing to all phases of the investigation and resolution proceeding;
24. The right to have the College compel the participation of student, faculty and staff witnesses, and the opportunity (if desired) to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence;
25. The right to submit an impact statement in writing to the investigators following determination of responsibility, but prior to sanctioning;
26. The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
27. The right to be informed in writing of when a decision by the College is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to request an appeal of the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.

Statement of the Responding Party’s rights:
The rights of the responding party should also be prominently indicated. These should include, among others particular to your College:

1. The right to investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to Geneva College administrators;
2. The right to be informed in advance, when possible, of any public release of information regarding the report;
3. The right to be treated with respect by College officials;
4. The right to have College policies and procedures followed without material deviation;
5. The right to be informed of and have access to campus resources for medical, health, counseling, and advisory services;
6. The right to timely written notification of all alleged violations, including the nature of the violation, the applicable policies and procedures and possible sanctions;
7. The right to be informed of the names of all witnesses whose information will be used to render a finding, prior to final determination, except in cases where a witness’s identity will not be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);
8. The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
9. The right to have reports addressed by investigators who have received annual sexual misconduct training;
10. The right to petition that any College representative be recused from the resolution process on the basis of demonstrated bias and/or conflict-of-interest;
11. The right to meetings and interviews that are closed to the public;
12. The right to have the College compel the participation of student, faculty and staff witnesses, and the opportunity to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence;
13. The right to have an advisor of their choice to accompany and assist throughout the campus resolution process;
14. The right to a fundamentally fair resolution, as defined in these procedures;
15. The right to provide an impact statement in writing to the investigators following any determination of responsibility, but prior to sanctioning;
16. The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
17. The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
18. The right to be informed in writing of when a decision of the College is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.

9. Disabilities Accommodation in the Equity Resolution Process

Geneva College is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the Sexual Misconduct Equity Resolution Process at the College. Anyone needing such accommodations or support should contact the Director of Student Success, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and
necessary for full participation.

10. Revision

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator. Geneva College reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

This policy and procedure was implemented in August, 2016.