

5. The Title IX Coordinator will assign a team of (2) investigators to conduct the investigation. In extenuating circumstances the College may utilize an external team solely or in conjunction with an internal investigation team.
6. The investigators meet with each party separately, however each party is entitled to have an advisor present. The advisor must be a non-attorney member of the campus community, unless the allegation involves stalking, dating or domestic violence, or sexual assault.
7. The investigation team uses the preponderance of the evidence standard (i.e., it is more likely than not that a fact is true and/or that a violation of this policy occurred) in making its findings and recommendations.
8. The investigators gather information and prepare a summary report of the facts, findings and recommendations and submit to a designated College official. The official reviewing the report may accept, reject, or send the report back to the investigators for further clarification.
9. If a determination is made that a violation of this policy did not occur, no sanction(s) will be issued under this policy. However, the College retains the right to address inappropriate behavior through other applicable College personnel and student life policies and procedures. Additionally, interim measures enacted prior to the completion of an investigation may remain in effect.
10. If the determination is made that a policy violation has occurred, the Title IX Coordinator will be notified and advise the Complainant and Respondent that they have 48-hours to submit a written impact statement to be considered when issuing sanctions.
11. Each party will be notified in writing, at or about the same time, of the decision and any sanctions issued along with a rationale. Either party may appeal in writing within 10 days of the decision, but only if there is new evidence that was not available during the investigation, procedural error, or belief that the sanctions(s) are inappropriate.
12. Regardless of whether sanctions are imposed, the College may offer other, non-disciplinary measures to the Complainant.
13. During all steps of the process, College officials may consult with the College's legal counsel.

The College's *Policy Against Gender Discrimination and Sexual and Other Misconduct* can be found on the College's website: [www.elmira.edu/titleix](http://www.elmira.edu/titleix)

#### TITLE IX COORDINATOR

Karen L. Johnson  
McGraw Hall, Room 114  
607-735-1827  
[kajohnson@elmira.edu](mailto:kajohnson@elmira.edu) or  
[titleix@elmira.edu](mailto:titleix@elmira.edu)

#### RESPONSIBLE ADMINISTRATORS

Director of Human Resources  
Jessica Carpenter  
McGraw Hall 116  
(607) 735-1812  
[jcarpenter@elmira.edu](mailto:jcarpenter@elmira.edu)

Vice President of Enrollment Management  
Christopher Coons  
Admissions, 855 College Ave  
(607) 735-1806  
[ccoons@elmira.edu](mailto:ccoons@elmira.edu)

Dean of Students  
Brandon Dawson  
Campus Center - SL Suite  
(607) 735-1816  
[bdawson@elmira.edu](mailto:bdawson@elmira.edu)

Director of Residence Life  
Nathan Friesema  
Campus Center - SL Suite  
(607) 735-1821  
[nfriesema@elmira.edu](mailto:nfriesema@elmira.edu)

Associate Dean of Students  
Kevin Murphy '96  
GTL 109  
(607) 735-1729  
[kmurphy@elmira.edu](mailto:kmurphy@elmira.edu)

Director of Campus Safety  
Steven Vann  
Tompkins Hall  
(607) 735-1777  
[svann@elmira.edu](mailto:svann@elmira.edu)

#### CONFIDENTIAL RESOURCES

##### **On-campus**

Clarke Health Center  
(607) 735-1750  
[chc@elmira.edu](mailto:chc@elmira.edu)

Counseling Services  
Clarke Health Center  
(607) 735-1750  
[retention@elmira.edu](mailto:retention@elmira.edu)

Sexual Assault Resource Center (SARC)  
Office in Clarke Health Center open on Mondays for limited hours when classes are in session.  
24-Hour Hotline (888) 810-0093  
[sarcst@ppsfl.org](mailto:sarcst@ppsfl.org)

##### **Off-campus**

Arnot Ogden Medical Center  
(607) 737-9194  
[arnohealth.org](http://arnohealth.org)

St. Joseph's Hospital  
(607) 737-7806  
[arnohealth.org/st-josephs-hospital](http://arnohealth.org/st-josephs-hospital)

Chemung County Health Department  
(607) 727-2028  
[chemungcountyhealth.org](http://chemungcountyhealth.org)

Planned Parenthood  
(607) 734-3313  
[plannedparenthood.org](http://plannedparenthood.org)

Clinical Social Work & Counseling Services  
(607) 734-1447  
[cswcsfingerlakes.com](http://cswcsfingerlakes.com)

#### OTHER RESOURCES

New York State Police 24-Hour Hotline  
(844) 845-7269

Elmira Police Department  
317 E Chemung St  
(607) 735-8600

Suicide Hotline  
(800) SUICIDE (734-2433)

Domestic Violence Hotline  
(800) 621-HOPE (4673)

Office of Civil Rights  
1-800-421-3481  
[OCR@ed.gov](mailto:OCR@ed.gov)  
<http://www.ed.gov/ocr>

*If you are a victim of sexual assault dial 911, contact Campus Safety at 735-1777 or contact the 24-hour State Police Hotline.*



# ELMIRA COLLEGE

## TITLE IX AND SEXUAL MISCONDUCT POLICY Student Information

## INTRODUCTION

As a recipient of federal funds, Elmira College is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. & 1681 et seq., which prohibits discrimination on the basis of sex in educational programs or activities. Pursuant to the Violence Against Women Act (“VAWA”), the College also prohibits domestic/dating violence and stalking where it impacts or has the potential to impact the educational or employment environment of a College community member. The College will advise complainants of their rights under Title IX and will take steps necessary to prevent harassment and to correct its discriminatory effects, as appropriate.

Misconduct, as defined in this policy, can violate Title IX and/or the VAWA. In compliance with Title IX and VAWA, the College provides a procedure for reporting, investigating, and adjudicating Misconduct.

This policy applies to all students, faculty, and staff of Elmira College. This policy applies to conduct on-campus and in connection with any College-sponsored program or activity, regardless of where it occurs. Additionally, off-campus conduct may violate this policy if the conduct creates a threatening or uncomfortable work or learning environment on Elmira’s campus or within any College program, or if the incident causes concern for the safety or security of the College’s campus. Non-community members (e.g., alumni, family of students, vendors, etc.) visiting campus or participating in any College program or activity are expected to abide by this policy.

## TERMINOLOGY

**Complainant:** The term complainant refers to the person making the complaint or report. That Complainant is usually the victim of an alleged violation, but a third or anonymous party may report on the alleged victim’s behalf.

**Respondent:** The term respondent refers to the person alleged to have committed a violation of this policy.

**Witness:** An individual who is present during an incident that violates this policy.

**Consent:** Elmira expects that any sexual activity or contact will be based on mutual affirmative consent to the specific sexual activity or sexual contact. All references to consent in this policy will mean affirmative consent which is defined as follows:

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

Consent to any sexual act or prior consensual sexual activity between or with any party

does not necessarily constitute consent to any other sexual act. Consent may be initially given but withdrawn at any time by expressing in words or actions that they no longer want the sexual act to continue. When consent is withdrawn or can no longer be given, sexual activity must stop.

Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. In New York, a person under the age of 17 is incapable of giving consent to any sexual activity. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

**Dating Violence:** Physical violence (hitting, punching, kicking, etc.) or threats of violence or acts of physical intimidation or coercion committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. (This is also referred to as Intimate Partner Violence.)

**Domestic Violence:** Physical violence, threats of violence or acts of physical intimidation or coercion between spouses or former spouses, cohabitating romantic partners or individuals who were formerly cohabitating romantic partners, individuals who share a child in common, or others in a family relationship

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. Stalking behavior includes but is not limited to repeated, intentional following, surveilling or observing another; or using “spyware” or other electronic means to gain impermissible access to a person’s private information.

**Sexually-related misconduct:** A form of Misconduct as defined by this policy, is a category of behavior that includes actual or attempted:

1. Sexual harassment
2. Non-Consensual sexual contact (including non-consensual sexual intercourse or sexual exploitation).

Sexually-related misconduct can occur between strangers or non-strangers, including people involved in an intimate or sexual relationship. Sexually related misconduct can be committed by males or by females, and it can occur between people of the same or different sex. Sexual violence is also a form of sexually-related misconduct.

## RETALIATION

It is a violation of College policy to retaliate against any person making a report of Misconduct or against any person cooperating in the investigation of (including testifying as a witness to) any allegation of Misconduct. The College will not only

take steps to prevent retaliation but will take strong responsive action if retaliation occurs and anyone engaging in retaliation is subject to disciplinary action, up to and including expulsion/termination. Retaliation includes intimidation, threats, or harassment against any such reporting party or third party. Retaliation should be reported promptly to the Title IX Coordinator and may result in disciplinary action independent of the sanction or interim measures imposed in response to the underlying allegations of sexual misconduct.

## REPORT TO A RESPONSIBLE ADMINISTRATOR

Any member of the Elmira community who wishes to report a formal complaint of misconduct against another member of the Elmira community may do so by contacting Campus Safety, the Director of Residence Life, the Dean of Students, the Associate Dean of Students, the Vice President of Enrollment Management, the Director of Human Resources or the Title IX Coordinator. These individuals have been trained to receive and respond to allegations of violations of the policy. The names of the Responsible Administrators are included in this brochure. The full policy can be found online at [www.elmira.edu/titleix](http://www.elmira.edu/titleix)

## CONFIDENTIAL RESOURCES

Students or other community members who are not sure whether they want to make a formal complaint can still seek help from the confidential resources listed in this brochure. These resources are provided to offer non-judgmental support and information to help an individual decide what is best for him or her as he or she recovers.

## BELOW IS AN ABBREVIATED VERSION OF THE PROCESS AND PROCEDURES FOLLOWED WHEN A COMPLAINT OF AN ALLEGED POLICY VIOLATION IS BROUGHT FORTH:

1. The Title IX Coordinator receives a complaint and reaches out to the Complainant to determine if the complaint should result in an investigation, or can be handled with mediation or interim measures. The process will normally be completed within 60 days, unless the Title IX Coordinator grants an extension for good cause.
2. The College may take interim measures to ensure that there is not any interaction between all parties involved. Interim measures may include ‘no-contact’ order, relocation of housing, change in class schedule, or temporary suspension from campus if necessary.
3. In some cases, a mediated resolution may be appropriate. Mediation is not available in cases of sexual assault or other violence.
4. If a formal investigation is warranted, the Title IX Coordinator will alert the Respondent that there is a complaint and provide written notification of the allegations. The Title IX Coordinator will reach out to the Respondent to provide information on the investigation process.