



DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT POLICY

Introduction

Alfred University's Discrimination, Harassment and Sexual Misconduct Policy has been adopted to ensure that all students, faculty, staff and guests may work, study, and enjoy the society of the University community without being subjected to discrimination, harassment or any form of non-consensual sexual activity.

Alfred University's Board of Trustees has entrusted the President of the University with the responsibility to appoint the appropriate personnel to oversee the administration and enforcement of the provision of this policy. The President has appointed Director of Human Resources to be the Title IX Coordinator and the person responsible for overseeing the administration of this policy.

Mark Guinan, Director of Human Resources, is the Title IX Coordinator. He maintains an office on the campus in Greene Hall, located on Main Street, 1 Saxon Drive, Alfred, NY 14802 and may be contacted by phone at 607-871-2909 or by e-mail at guinan@alfred.edu.

He has appointed the following as Title IX Deputy Coordinators:

Del Rey Honeycutt, Interim Dean of Students, for student complaints;
Amy Button, Assistant Professor of Psychology, for faculty complaints
Kayleigh Misner, Human Resources Generalist, for staff complaints
Jess Hurlbut, Assistant Director of Athletics, for student and athlete complaints.

Policy Statement

Alfred University is committed to maintaining a learning and working environment that is free of bias, prejudice, and harassment – an environment that supports, nurtures and rewards career and educational advancement on the basis of ability and performance.

Alfred University is also a community that values freedom of expression, intellectual inquiry, and academic debate. This policy is not intended to prevent or penalize a statement, opinion, theory, or artistic expression offered within the bounds of legitimate, relevant and responsible teaching or learning.

Policy Coverage

This policy sets forth behavioral expectations for all members of the Alfred University community: students, faculty and staff. Alfred University will not tolerate harassment or discrimination in the workplace, classroom, University facilities, and in other Alfred University-related settings, such as study-abroad programs and Alfred University-sponsored social functions and events. Non-community members (guests, alumni, vendors, parents, etc.) visiting our campus are also expected to abide by the behavioral expectations set forth here. Even conduct that takes place off-campus and not in connection with Alfred University programs may violate this policy if the conduct creates a threatening or hostile work or learning environment on campus or within an Alfred University program, or if the incident causes concern for the safety or security of Alfred University's property. This policy applies regardless of an individual's race, color, national origin, religion, creed, age, disability, sexual orientation, gender, gender identity, gender expression, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

Definitions

Discrimination

Alfred University defines discrimination as an educational or employment-related decision that

disadvantages a person and that occurs because of the affected individual's race, color, national origin, religion, creed, age, disability, sexual orientation, gender, gender identity, gender expression, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction or any other characteristic protected by applicable law. A person who believes that he/she has been discriminated against with respect to an academic or employment decision is generally entitled to bring a complaint pursuant to this policy in addition to any other Alfred University process or procedure that may be available (such as a grade appeal policy or appeal procedures for work performance or promotion). However, the role of this policy is not to modify or displace another's legitimate decision as to competency or performance; the only function of this policy is to ensure that the decision was not biased.

This policy does not apply to decisions relating to requests for reasonable accommodation due to a disability. Academic disability accommodations are handled by the Center for Academic Success and pursuant to that office's policies. Work-related disability accommodations are handled by the Human Resources Office and pursuant to that office's policies.

Harassment

Alfred University defines harassment as conduct that offends on the basis of race, color, religion, ethnic or national origin, gender, age, disability, predisposing genetic characteristics, sexual orientation, gender identity, gender expression, military or veteran's status, status as a victim of domestic violence, marital status or any other characteristic protected by applicable law.

Harassment is any form of offensive conduct or communication and may be verbal, written, electronic, visual or physical. Merely by way of illustration, harassing acts may include racial, ethnic or religious slurs; name-calling that demeans on the basis of gender, age, disability, sexual orientation or gender identity; unwanted touching of a person's legs or shoulders; physically harming or threatening another due to racial or religious animosity; vulgar pictures or ethnically offensive symbols or graffiti; or gestures that mimic or mock a person's gender, sexual orientation, disability, race or religion. Sexual harassment is one form of harassment. Sexual harassment may consist of sexually-charged comments or conduct, including sexually lewd conversation or pictures, repeated, unwelcome requests for dates or romantic interaction; conditioning a benefit (such as a grade or promotion) on sexual activity; or unwelcome physical affection (such as hugs or kisses).

The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. The determination is based on a "reasonable person" standard and takes into account the totality of the circumstances. Alfred University considers the context of a communication or incident, the relationship of the individuals involved in the communication or incident, whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness or severity of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual and the learning community.

In all instances, a key factor is whether the complained-of behavior occurred because of one of the protected characteristics listed here. If it did not, the behavior is not regulated by this policy. Nevertheless, Alfred University reserves the right to discipline conduct that offends based on a protected characteristic even if the situation does not rise to the level of severity or pervasiveness to violate applicable law.

Affirmative Consent

Alfred University 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 as defined in this section.

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

Past consent to sexual activity or consent to any sexual act does not necessarily constitute consent to the same or any other sexual activity in the future. Consent can be withdrawn at any time during sexual activity.

When consent is withdrawn or can no longer be given, sexual activity must stop. Consent cannot be withdrawn after the fact.

Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in the sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of impairment, someone who is under the influence of alcohol, drugs or other intoxicants may be intoxicated and therefore unable to consent.

Consent is required regardless of whether the person initiating the sexual activity is under the influence of drugs or alcohol. Thus, a person who has been drinking or using drugs is still responsible for any violation of this policy that he/she commits. This means that, even if the accused was drunk or high and, as a result, he/she did not realize that the other person was not consenting to or was unable to consent to sexual activity, the person who committed the non-consensual act is still responsible for having violated this policy.

Sexual activity as the result of coercion is non-consensual. Coercion is undue pressure, force or threat, threat of harm or intimidation to engage in sexual activity.

Responsible Employees

All fulltime staff and faculty of Alfred University are required to promptly report information they have about possible sexual harassment or sexual misconduct, including but not limited to sexual assault, domestic or dating violence, and stalking to the designated Title IX Coordinator or Title IX Deputy Coordinator listed on page 4 of this document.

Sex Offenses

Alfred University expects that any sexual activity or contact will be based on mutual affirmative consent to the specific sexual activity.

Sexual Assault

Consistent with federal law, Alfred University defines sexual assault as including:

- a. Non-consensual Sexual Contact. Any intentional sexual contact, however slight, with an object or bodily part, by a person upon another person that is without consent. This includes any bodily contact with the breasts, groin, genitals, mouth or other bodily contact in a sexual manner. Examples of non-consensual sexual contact, include but are not limited to touching the private body parts of another person for the purpose of sexual gratification forcibly or without affirmative consent or where the victim is incapable of consent due to incapacity or age.
- b. Non-Consensual Sexual Intercourse. Sexual assaults of this type can be sub-defined by the following:
 - o **Rape**: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, forcibly or without affirmative consent or where the victim is incapable of consent due to mental or physical incapacity.
 - o **Statutory Rape**: Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Sexual Exploitation

Sexual exploitation occurs when, without affirmative consent, one takes sexual advantage of another. Examples of sexual exploitation include but are not limited to observing or recording others engaged in sexual or private activity (such as consensual sexual activity, undressing or showering) without the consent of all involved; or taking intimate pictures of another but then distributing the pictures to others without the photographed person's affirmative consent; prostitution, acts of incest, or exposing one's genitals in non-consensual circumstances; or engaging in sexual activity with another while knowingly infected with a sexually transmitted disease (STD) without informing the other person of such infection.

Dating Violence

Dating violence refers to physical violence (hitting, punching, kicking, etc.), threats of violence or other abusive, intimidating behavior committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

Stalking

Stalking is 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 may include but is not limited to repeated, intentional following or observing another; or using "spyware" or other electronic means to gain impermissible access to a person's private information.

Domestic Violence

Domestic violence refers to physical violence, threats of violence or other abusive, intimidating behavior 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.

Sexual Misconduct

The term sexual misconduct is a term used by this policy to more conveniently refer to any form of sex or gender-based discrimination; sexual or gender-based harassment; non-consensual sexual activity or sexual offense; dating violence, or domestic violence if between current or former spouses or romantic partners; or stalking, if the circumstances of the stalking suggest gender-based animosity, hostility or occurs in the context of a romantic or sexual pursuit. Sexual misconduct may occur between members of the same or opposite sex and in heterosexual and homosexual relationships.

Complainant

The term complainant refers to the person making the complaint or report. That person is usually the person who experienced the discrimination, harassment, sexual misconduct or other violation of this policy.

Respondent

The term respondent refers to the person alleged to have committed the alleged discrimination, harassment, sexual misconduct or other violation of this policy.

Support for Affected Community Members

Any University community member who has been impacted by behavior that violates this policy has the right to make a report to the Office of Public Safety or one of the Title IX Coordinator's listed below, local law enforcement, and/or the New York State Police, or choose not to report. If reported to Alfred University under this policy, a reporting individual will be protected from retaliation and will receive appropriate assistance and resources from Alfred University. A Student's Bill of Rights for cases involving sexual assault, domestic violence, dating violence or stalking is set forth at the end of this policy. Our Center for Academic Success (607-871-2148) can assist persons with disabilities.

Confidential Resources

Campus Resources

A victim is encouraged to seek support for her/his emotional and physical needs. A person seeking confidential emotional or health care may contact the following resources.

Wellness Center - Counseling Services - 607-871-2300

Wellness Center - Health Services - 607-871-2400

Professionals in Counseling Services and healthcare professionals at the Wellness Center (Health & Counseling Services) are the only Alfred University employees who can offer legally protected confidentiality. These Confidential Resources can provide assistance and information regarding medical assistance and treatment (including information about sexually transmitted infections, and sexual assault forensic examinations), and resources available through the New York State Office of Victim Services, academic and other campus support options, campus disciplinary proceedings and law enforcement options. The health and counseling services noted above are available to students free of charge). Information shared with the Alfred University's Wellness Center staff will not be shared with the Title IX /Deputy Title IX Coordinator; therefore, a report to a confidential resource is not a report to the University and will not result in remedial action, an investigation, or disciplinary action. In addition, a confidential resource is not able to make any

changes a complainant may desire to avoid the respondent, such as a change in housing assignment, class assignment, alternative means of transportation, or different work assignment. Similarly, information shared at public awareness and advocacy events (such as “Take Back the Night”) does not create an obligation on the part of the University to investigate that information and/or take further action. Any person who desires Alfred University to investigate for potential disciplinary action or request any intermediate accommodations, the person must make a report to one of the Responsible Administrators listed below.

Off Campus Resources

In addition to the Wellness Center, there are off campus, community confidential resources that are available. Reports to these confidential resources will not constitute a report to the University and will not result in the University taking any action against the accused. These confidential resources, which may or may not charge services fees, include:

Community Action 24-Hour Hotline	1-888-945-3970
Rape Crisis of the Southern Tier	1-888-810-0093
NYS Police Sexual Assault Hotline	1-844-845-7269
NYS Domestic Violence Hotline	1-800-942-6906
NYS Office of Victim Services	1-800-247-8035

Non-Confidential Resources – Title IX Coordinator/Title IX Deputy Coordinator’s

The following offices and individuals have been trained to receive and respond to allegations of violations of this policy.

Title IX Coordinator (all persons)

Director of Human Resources, Mark Guinan 607-871-2909 guinan@alfred.edu

Title IX Deputy Coordinator (students)

Interim Dean of Students, Del Rey Honeycutt 607-871-2132 honeycutt@alfred.edu

Title IX Deputy Coordinator (staff)

Human Resources Generalist, Kayleigh Misner 607-871-2276 misner@alfred.edu

Title IX Deputy Coordinator (faculty)

Assistant Professor, Psychology, Amy Button 607-871-2860 button@alfred.edu

Title IX Deputy Coordinator (students)

Assistant Director, Athletics, Jessica Hurlbut 607-871-2916 hurlbut@alfred.edu

If a report is made to anyone other than the Title IX Coordinator/Title IX Deputy Coordinator listed above, the complainant risks the possibility that the information will not come to the attention of the proper Alfred University officials and may, therefore, not be acted upon.

Upon receiving a report, the Title IX Coordinator/ Title IX Deputy Coordinator to whom the report was made will discuss with the complainant available avenues and options. Options may include reports to local law enforcement, initiating a disciplinary proceeding against the respondent and remedial actions to ameliorate or correct the effects of the discrimination, harassment, or sexual misconduct. Other options may include, but are not limited to, interim changes in housing assignment, class assignment, and alternative means of transportation to allow the complainant to avoid interacting with the respondent.

There is no time limit for making a report. However, the passage of time may make effective responsive action difficult. Further, if the respondent is no longer a member of the community, Alfred University’s ability to respond may be limited. It is at the discretion of the assigned Title IX Deputy Coordinator to determine the action Alfred University will take concerning complaints which are filed after a substantial amount of time has passed. Individuals are encouraged to bring complaints forward in a timely manner.

Alfred University may impose interim suspension or interim restrictions in order to protect the physical or emotional safety of any member of the community or ensure orderly operations. The imposition of interim restrictions, if any, will be determined by the Title IX Coordinator and the appropriate Title IX Deputy Coordinator.

Title IX Coordinator/ Title IX Deputy Coordinators and Responsible Employees are not a confidential resource. A Responsible Employees will share all information reported to him/her with the Title IX/Title IX Deputy Coordinator. However, this sharing of information does not necessarily lead to an investigation or disciplinary action. (See “choices of action to take” section for further explanation as to the response to a report.) A report to a Responsible Employees or a Title IX Coordinator/Title IX Deputy Coordinator may be made anonymously, but Alfred University’s ability to respond to an anonymous complaint may be limited.

For more information about this policy and Alfred University’s procedures to respond to acts of discrimination, harassment, or sexual misconduct, please contact a Title IX Coordinator/ Title IX Deputy Coordinator. You may do so even if you have not decided whether you wish to disclose information concerning a particular incident.

Law Enforcement

A victim of a crime is encouraged, but not required, to report the incident to local law enforcement and pursue criminal charges.

Alfred Village Police Department

Emergency, Call 911; Non-Emergency, 607-587-8877

Allegany County Sheriff’s Department, New York Sheriffs’ Victim Hotline (VINE)

For Offender information, call toll-free: 1-888-VINE-4-NY (1-888-846-3469)

Statewide Victim Assistance and Notification 24 hours a day;

New York State Police maintain a 24-hour

Hotline staffed by individuals trained to respond to sexual assault 1-844-845-7269

The criminal process and Alfred University’s disciplinary processes are not mutually exclusive or dependent on each other, meaning that a person may pursue either a criminal complaint or University complaint or both. Any internal investigation and/or hearing process may be conducted concurrently with any criminal justice investigation and proceeding that may be pending. Temporary delays in Alfred University’s internal processes may be requested by local law enforcement authorities for the purpose of gathering evidence. Any requested temporary delay must be submitted to the Title IX Coordinator/Deputy Title IX Coordinator and shall not last more than ten (10) days, except when local law enforcement authorities specifically request and justify a longer delay.

In criminal cases, the preservation of evidence is critical and must be done properly and promptly. If you are the victim of a crime, you are encouraged to **call 911** immediately. To preserve evidence, it is best that you not change your clothes, shower or brush your hair or teeth, as physical evidence may be lost. The Alfred Police Department, 7 West University Street, Alfred, NY 14802 607-587-8877 (or 911) can assist in filing a criminal complaint and securing an appropriate examination by a Sexual Assault Nurse Examiner.

Additionally, orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence by an Alfred University community member or other person. In appropriate circumstances, an order of protection may be available that restricts the offender’s right to enter Alfred University’s property, and Alfred University will abide by a lawfully issued order of protection. University officials will, upon request, provide reasonable assistance to any member of the campus community in obtaining an order of protection or, if outside of New York State, an equivalent protective, including providing that person with:

- o a copy of an order of protection or equivalent when received by the University and providing that person with an opportunity to meet or speak with a University representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person’s responsibility to stay away from the protected person or persons;
- o an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension; and
- o assistance in contacting local law enforcement to effect an arrest for violating such an order of protection.

If an act of alleged assault or violence is reported to a Title IX Coordinator/ Title IX Deputy Coordinator, the

victim will be encouraged to report the incident to local law enforcement. Alfred University must also report statistics concerning the occurrence on campus of certain violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include any personally identifiable information concerning the victim or the accused.

Reporting individuals should understand that not all sexual misconduct under this policy is a crime and the measures that standard law enforcement employs in processing complaints is different than the University's standard under this policy. Questions about whether incidents violate criminal laws and how the criminal process works should be directed to law enforcement officials or the Allegany County District Attorney.

For educational purposes, the New York State provisions defining criminal sexual offenses are provided as an addendum to this policy.

Interim Measures and Accommodations

Alfred University's Title IX Coordinator/Title IX Deputy Coordinator will put in place reasonable interim measures and accommodations to protect safety, prevent retaliation, and ensure that the person reporting sexual assault, dating violence, domestic violence or stalking is not subjected to an ongoing hostile environment. Interim measures may include a no contact order or changes in academic, housing, employment, transportation or other circumstances. Alfred University will review the facts and circumstances of each case, as well the complainant's wishes, in deciding whether and what steps are reasonable and appropriate.

The complainant or respondent may request review of the need for and the terms of any interim measures or accommodations imposed or requested that affect the individual directly and may submit evidence in support of his/her/their request. A request to add to, modify or eliminate an interim measure or accommodation may be made to the Title IX Coordinator/ Title IX Deputy Coordinator. Upon receipt of such a request, the Title IX Coordinator/ Title IX Deputy Coordinator will inform the other party of the request and allow the other party to respond, including submitting evidence if desired. The Title IX Coordinator will consult with the appropriate Deputy Coordinator with regard to any such request for review. A decision will be made and shared with the complainant as promptly as possible and, absent unusual circumstances, within one calendar week. The Title IX Coordinator/ Title IX Deputy Coordinator may modify the interim measures or accommodations on a temporary basis and while the parties are submitting their information and responses.

When a respondent is accused of sexual misconduct and is determined to present a continuing threat to the health and safety of the campus community, he or she (or they) will be subject to interim suspension. Both the respondent and subject of any such misconduct will, upon written request, be afforded an opportunity for a review of the need for and the terms of an interim suspension, including potential modification, by submitting a written request to the Title IX Coordinator/ Title IX Deputy Coordinator, providing the basis for that request and any evidence in support. When the accused is not a student but is a member of the University community, he or she (or they) may be subject to interim suspension in accordance with Alfred University's employment policies and practices.

Choices of Action to Take

Filing a Report without Taking Action

A complainant may make a report to a Title IX Coordinator/ Title IX Deputy Coordinator (see page 4) and request that Alfred University take no investigatory or disciplinary action. Alfred University endeavors to comply with complainants' wishes with respect to whether responsive action is taken. However, that is not always possible.

If a complainant requests that no action be taken against the respondent, the Title IX Deputy Coordinator will notify the Title IX Coordinator. Alfred University's decision will depend on the seriousness of the offense. The scope related to seriousness is determined by the following:

- There was an identified person accused or multiple accusations of an identified person;
- If there is reason to believe that the respondent(s) has engaged in this or similar conduct previously;

- The incident represents an escalation of past misconduct by the respondent(s);
- The respondent(s) threatened further violence against the victim or others;
- The sexual misconduct was perpetrated with a weapon or force;
- The complainant is a minor;
- The circumstances suggest an ongoing or future risk to the campus community or the complainant;
- Alfred University possesses other means to obtain relevant evidence of the sexual misconduct (e.g., security cameras, etc.);
- The overall safety of the campus community and other similar considerations.

A decision will be made and shared with the complainant. Alfred University retains the right to act upon any information that comes to its attention.

Similarly, a complainant may desire to have investigatory and/or disciplinary action taken, but may wish to have his/her/their identity as the complainant kept confidential. Depending on the circumstances, this may or may not be possible. If any number of people could have reported the incident, it may be possible for the complainant's identity to remain confidential and not shared with the respondent. However, in other cases, it may not be possible to proceed with investigatory or disciplinary action without revealing the identity of the complainant. If a complainant requests that his/her/their name be kept confidential, Alfred University's ability to respond to the complaint may be limited. The Title IX Deputy Coordinator will consult with the Title IX Coordinator and a decision will be made and shared with the complainant. Alfred University retains the right to act upon any information that comes to its attention.

Even when confidentiality is not available, Title IX Coordinator/Title IX Deputy Coordinator and other University officials acting under this policy will maintain privacy to the greatest extent possible. Information provided to a non-confidential employee will be relayed only as necessary for the Title IX Coordinator/Title IX Deputy Coordinator, and those acting under this policy, to carry out the purposes of this policy.

Even if no investigation or other internal disciplinary action is pursued, a complainant may request other remedial or supportive relief, such as changes in housing assignment, class assignment, alternative means of transportation, and a different work assignment to allow the complainant to avoid interacting with the respondent. Alfred University will review the facts and circumstances of each case, as well the complainant's wishes, in deciding what steps are reasonable and appropriate.

Withdrawal of Complaint

Prior to the conclusion of the investigation the complainant may withdrawal the complaint. Withdrawal of the complaint in most cases will end the process. Alfred University has the right to move forward and complete the investigation process and submit a Finding Report to the Title IX Deputy Coordinator.

Mediation/Informal Resolution

In some cases, mediation or an informal resolution may be appropriate.

- **Mediation** is only permitted for reports that do not involve any physical contact or violence; mediation may be appropriate in instances of more minor acts of insensitivity or misunderstandings. In the event mediation is used, the appropriate Title IX Deputy Coordinator will select a mediator. The mediation must be conducted by a third-party; mediation between just the complainant and respondent is not acceptable. A campus mediator will begin mediation efforts promptly and will report to the Title IX Coordinator and the appropriate Title IX Deputy Coordinator that the mediation occurred. At any time during the mediation process the complainant or the respondent has the right to terminate the process and proceed to an investigation.
- A person who desires an **Informal Resolution** should consult with the appropriate Title IX Deputy Coordinator. Informal resolution must be agreed upon by both parties, and the Title IX Coordinator must agree that it is appropriate. At any time during the informal resolution process the complainant or the respondent has the right to terminate the process and proceed to an investigation.

If the parties reach agreement and this agreement is deemed appropriate, the informal resolution is considered successful. Both parties will sign a statement agreeing that the informal resolution was

successful, and the matter will be considered resolved. If the informal resolution is unsuccessful, the complainant can proceed with a formal complaint. A copy of the signed statement will constitute the record of the informal resolution. If a party with obligations pursuant to an informal resolution fails in his/her obligations, the other party may ask Alfred University to enforce the terms of the resolution or may proceed with a formal complaint process.

Serious sanctions, such as suspension, expulsion or termination, are not possible as a result of the informal resolution process, but lesser sanctions may be agreed upon.

Filing a Formal Complaint for Potential Disciplinary Action

Any individual may initiate a complaint (students may work with Counseling Services to draft the complaint) by reporting to a Title IX Deputy Coordinator.

When a complaint is reported involving a student under this policy which does not involve physical contact, the Title IX Deputy Coordinator, Dean of Students, may choose to refer the complaint to the Administrative Hearing procedure set out in Alfred University's Student Life Policies and Procedures instead of the procedures below. The Title IX Deputy Coordinator, Dean of Students may refer the complaint back to the procedures in this policy if facts uncovered during the administrative hearing or other reasons indicate the complaint would be more appropriately handled by the procedures in this policy.

Withdrawal or Resignation while charges are pending:

Student: Alfred University has the right to complete the investigation, disciplinary and appeal process if deemed necessary by the Title IX Coordinator/Title IX Deputy Coordinator. A respondent student may decline to participate in the investigation or appeal process, but this will not deprive Alfred University to proceed with its usual investigatory and appeal procedures if deemed appropriate.

Employee: Alfred University has the right to complete the investigation, disciplinary and appeal process if deemed necessary by the Title IX Coordinator/Title IX Deputy Coordinator. A respondent employee may decline to participate in the investigation or appeal process, but this will not deprive Alfred University to proceed with its usual investigatory and appeal procedures if deemed appropriate.

Investigation, Finding Report, Sanctioning and Appeal Hearing

Investigation of Complaint

Upon receipt of a complaint and a desire by the complainant to move forward, or a determination by Alfred University that it is necessary to move forward with an investigation despite the wishes of the complainant, the investigation process will begin. The appropriate Title IX Deputy Coordinator will contact the complainant(s) and the respondent(s) to meet and review the investigation procedures, offer support of a counselor and outline the basis for the complaint. In extenuating circumstances Alfred University may utilize an external team solely or in conjunction with an internal investigation team. In cases alleging sexual misconduct, the complainant and respondent will be permitted to have an advisor of choice attend this meeting with her/him (or their) at her/his (theirs) expense. In sexual misconduct, stalking, dating violence and relationship violence cases, this advisor may be an attorney. An advisor's role is to consult with and support the party and may do so only in writing so as not to disrupt or distract from the meeting; the advisor is not permitted to participate or to speak or make a statement of any kind to the investigators. Any advisor who fails to comply will be required to leave the meeting, and the meeting will proceed in the advisor's absence. Alfred University's Center for Academic Success (607-871-2148) can assist persons with disabilities.

The investigation will be conducted by a team consisting of two members of the Grievance Resolution Committee (GRC) and a member of the Public Safety Office. The investigation process generally includes interviewing the persons involved, including witnesses, and gathering and considering relevant evidence. Alfred University has the right to consult with legal counsel during the investigation. In unusual cases, it may be apparent that an investigation should not proceed. This may be the case if the complaint is not of a nature covered by this policy; where another policy or procedure is more appropriate; or where there is indisputable proof that the allegations are not true. If an investigation is not to proceed, the complainant and respondent will

be so informed.

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). At the conclusion of the investigation, the investigation team will issue a written report of the evidence and their finding as to responsibility to the appropriate Title IX Deputy Coordinator. The complainant and the respondent will, upon request to the Title IX Deputy Coordinator, be provided access to the written report, to the extent required or allowed by FERPA, including the finding, all statements including the complainant's and the respondent's, and supporting documentation, subject to redaction permitted and/or required by law. For the purpose of this policy, access means a reasonable opportunity to read but not copy the material.

Finding Report

The investigation team will issue a Finding Report to the appropriate Title IX Deputy Coordinator, which shall include a determination as to responsibility, factual findings supporting the determination, and the rationale for the decision. The Finding Report will be available for review by both parties simultaneously by the Title IX Deputy Coordinator.

If the investigation team does not find a violation of this policy, no sanction(s) will be imposed under this policy, although Alfred University retains the right to address inappropriate behavior through other applicable personnel and conduct policies and procedures. When a finding of responsibility for violation of this policy is made, both the complainant and respondent shall have the opportunity to make a written impact statement to the appropriate Title IX Deputy Coordinator, prior to the determination of an appropriate sanction.

Student Respondent: When the finding indicates a violation of this policy, as determined by a "preponderance of the evidence" standard, the Dean of Students will assign sanctions to the respondent. In making a determination regarding sanctions, the Dean of Students may consult with the Title IX Coordinator and other appropriate University officials.

Faculty and Employee Respondent: When the finding indicates a violation of this policy, as determined by a "preponderance of the evidence" standard, the appropriate Title IX Deputy Coordinator will assign sanctions to the respondent. In making a determination regarding sanctions, the appropriate Title IX Deputy Coordinator may consult with the Title IX Coordinator and other appropriate University officials.

Both the complainant and respondent shall have the right to exclude their own prior sexual history with persons other than the other party or their own mental health diagnosis and/or treatment from admittance in any disciplinary proceeding held under this policy. Past findings of domestic violence, dating violence, stalking or sexual assault may be considered for purposes of determining the appropriate sanction after a finding of responsibility.

Both complainant and respondent will receive simultaneous written notice of outcomes, to the extent permitted by law. The final outcome letter shall include factual findings supporting the determination, the decision and the sanction, if any, as well as the rationale for the decision and sanction.

Vendor, visitor or other non-student, non-employee Respondent: When the finding indicates a violation of this policy, as determined by a "preponderance of the evidence" standard, the Chief of Public Safety or other appropriate designed Alfred University administrator will communicate to the respondent the outcome and the sanction imposed, which may be, among other things, a full (persona non-grata) or partial ban from Alfred University's property. A vendor, visitor or other non-student, non-employee respondent does not have a right to appeal.

Appeals

Both the complainant and the respondent, if a student, faculty member or employee, may file an appeal based on dissatisfaction with the finding of responsibility for a violation (or the lack of such a finding), or with the sanction imposed, or both. The grounds of appeal are limited to:

- i. A procedural error occurred during the process that had a direct impact on the outcome;
- ii. New evidence has come to light that has a direct impact on the outcome which could not have been discovered by a properly diligent person before or during the original proceeding;

- iii. The sanction is too severe (appeal from respondent); or the sanction is too lenient (appeal from complainant);
 - iv. The decision is not supported by a preponderance of the evidence.
- The ground(s) for appeal must be set forth and the reason(s) for the appeal must be provided in the appeal submission. Sanctions remain in place pending the outcome of the appeal, unless the Title IX Coordinator in conjunction with the Title IX Deputy Coordinator decides otherwise.

Student: the appeal and any accompanying documentation must be completed and submitted, electronically or in person, within seven (7) business days to the Office of Student Conduct.

Faculty or Employee: the appeal and any accompanying documentation must be completed and submitted, electronically or in person, within seven (7) business days to the Title IX Coordinator, to distribute it to the appointed appeal officer.

In the event an appeal is submitted by any party, the complainant, respondent and Chairperson will be notified in a timely manner of such appeal. Notification of the appeal hearing will be received within seven (7) business days; the outcome of the appeal is final. (see hearing procedures below).

Appeal Hearing Procedures

An Appeal Hearing is held before a four (4) member Appellate Panel made up of administrators, faculty and/or staff members and a non-voting Chairperson, each selected from the Grievance Resolution Committee(GRC) (see below for a description of the committee). To be eligible to serve on the Appellate Panel, each member must have been appointed and participate in training by the Title IX Coordinator and/or the Title IX Deputy Coordinator. If any vacancy on the panel occurs during the academic year, or if the Chairperson determines that a legitimate conflict of interest exists between a member of the panel and a party to a complaint, the Chairperson may request that the Title IX Coordinator or the Title IX Deputy Coordinator find a replacement from those members of the Appellate Panel eligible to serve.

A person who served on the investigation team is ineligible to serve on the Appellate Panel in the case.

The Appellate Panel Chairperson is the only non-voting member of the Appellate Panel. The Chairperson presides over the hearing and is responsible for ensuring Alfred University policy; hearing procedures and complainant's/respondent's rights are followed:

- o The Chairperson will give formal notice to the complainant, respondent, investigation team and relevant witnesses of the time, place and details of the hearing.
- o The Chairperson has authority to determine all questions of procedure, questions complied by the voting members of the panel and information presented.
- o The Chairperson is responsible for ensuring that the sexual history or character of a complainant or respondent and the conduct history of the respondent or complainant which is not relevant to the complaint is not admissible.
- o The Chairperson is in charge of presenting the information to be considered and reviewed by the panel.
- o The Chairperson may call witnesses, including members of the investigation team. A party may not call witnesses. However, a party may request that the Chairperson call witnesses by submitting a request to the Chairperson at least two (2) days prior to the hearing, with an explanation of the reason(s) the party believes the witness should be called and/or the relevant information the party believes the witness will provide. The Chairperson will decide in his/her discretion whether to call any witness.
- o The Chairperson will ensure that the complainant/respondent have the right to have an advisor present in any proceeding. An advisor's role is to consult with and support the party and may do so only in writing in effort to not disrupt or distract from the proceeding; the advisor is not permitted to participate in the hearing, to speak or make a statement of any kind during the proceeding. The Chairperson may exclude any advisor who fails to comply, and the Hearing will proceed in the advisor's absence. In sexual misconduct, stalking, dating violence and relationship violence cases, this advisor may be an attorney, at the party's own expense.
- o The hearing is held in private. The Chairperson may allow witnesses who have relevant information to provide to be present during portions of the hearing and may call on the investigation team. The Title IX Deputy Coordinator may be called by the Chairperson to submit a statement of recommendation as to sanctioning.

Finding & Sanction(s) Appeal:

- o Prior to the scheduled start of the hearing, the Appellate Panel will meet to review the submitted statements, reports, and supporting documentation and develop questions to ask the involved parties and witnesses.
- o The hearing is not recorded, and no party is permitted to make a recording of the hearing. During the hearing, the Chairperson will ask the questions developed by the panel.
- o The complainant and the respondent have the right to question the other party and any witnesses through questions posed to the Chairperson.
- o In his/her discretion, the Chairperson may decline to allow any question or evidence on the ground that it is irrelevant, unreliable, duplicative, or otherwise unnecessary or inappropriate.
- o The complainant or the respondent may request that accommodations be made to have separate rooms or a room partition, or may request an alternative arrangement in order to minimize potential trauma or stress, without depriving the other party of access to the evidence or testimony.
- o A hearing may proceed even though the complainant or respondent declines to participate. A complainant or respondent may choose to provide a written statement in lieu of attendance at the hearing and may choose to decline to participate at all.
- o The respondent/complainant will be given the opportunity to provide an opening and a closing statement.
- o The panel may of its own volition request that a witness appear if the panel believes the witness will provide useful information.
- o The Chairperson has the responsibility to ensure that a witness or a party is treated respectfully and sensitively.
- o If at any time during the hearing process a person's behavior, including the complainant or respondent, is deemed as disruptive by the Chairperson; the Chairperson has the right to excuse or remove said person from the proceedings and continue the hearing without their participation.
- o The Chairperson may accept and use written witness statements as part of the hearing. Both parties will have access to any written witness statements made part of the hearing, subject to redaction as permitted and/or required by law.
- o The respondent and the complainant will be informed in writing of the outcome of the hearing by the Chairperson.

Appeal Outcomes

The outcome of the appeal may be the following:

- i. Affirm the finding(s) of no responsibility and, therefore, no sanction.
- ii. Affirm the finding(s) of responsibility and the sanction(s).
- iii. Affirm the finding(s) of responsibility and increase or reduce, but not eliminate, the sanction(s).
- iv. Modify sanction(s): may increase or reduce but not eliminate the sanctions.
- v. Reverse the finding(s) of responsibility and eliminate the sanction(s).
- vi. Reverse finding of no responsibility and assign a sanction(s).

The outcome of the appeal hearing is final. The Chairperson will notify the parties simultaneously in writing of the outcome.

In the case of a **tenured or tenured-track faculty member**, if the proposed sanction under this policy is "termination of tenure" or "termination of employment", then the applicable procedures in the Provisions of Faculty Appointment (8.5 of Faculty Handbook) will be followed, except that the factual findings and sanctions assigned at the conclusion of the appeal process by the Appellate Panel formed by this policy shall be accepted by the President for recommendations to the Executive Committee of the Board of Trustees.

Sanctions

The sanction(s) for a violation of this policy will be based on a consideration of all of the circumstances, including the severity of the conduct and the respondent's disciplinary history. The sanction(s) imposed may be any one or more of the following:

Student:

day of service

disciplinary probation/1 semester

disciplinary probation/for the duration of active status

educational modules

expulsion
housing re-assignment
loss of privileges (housing)
mandated counseling assessment
mandatory counseling/twice a month for 1 semester
mandatory counseling/twice a month for 2 semester
mandatory counseling/twice a month for 3 semester
mandatory counseling/twice a month for 4 semester
no contact order (keep-away)/1 semester
no contact order (keep-away)/for the duration of active status
residence hall probation/1 semester
residence hall probation/for the duration of active status
restrictions from designated areas of campus
suspension/1 semester
suspension/2 semesters
suspension/3 semesters
suspension/4 semesters
University probation/1 semester
University probation/2 semester
University probation/3 semester
University probation/4 semester
University probation/for the duration of active status
written warning

persona non grata (ban from campus)
termination of contract/lawsuit for damages

Students who are no longer matriculating:

persona non-grata (ban from campus) for up to 10 years

Employee & Non-tenured Faculty:

verbal warning-document filed
written warning-document filed
final warning-suspension with pay/1 month
final warning-suspension with pay/2month
final warning-suspension with pay/3 month
final warning-suspension without pay/1 month
final warning-suspension without pay/2month
final warning-suspension without pay/3 month
restrictions from designated areas of campus/6 months
restrictions from designated areas of campus/12 months
restrictions from designated areas of campus/24 months
termination

Tenured/Tenure Track Faculty:

verbal warning-document filed
written warning-document filed
restrictions from designated areas of campus/6 months
restrictions from designated areas of campus/12 months
restrictions from designated areas of campus/24 months
tenure revocation
termination

Non AU community members:

For those crimes of violence that Alfred University is required by federal law to include in its Annual Security Report, the transcripts of students found responsible, if any, shall include the following notation:

- Withdrew with conduct charges pending, or
- Suspended after a finding of responsibility for a code of conduct violation, or
- Expelled after a finding of responsibility for a code of conduct violation.

Transcript notations for suspensions may be removed, upon request, at the discretion of Alfred University one (1) year after the conclusion of the suspension. A request to have a suspension notation removed from one's transcript should be submitted to the Title IX Coordinator who will consult with the appropriate Title IX Deputy Coordinator and representatives from Alfred University's Registrar office to determine whether removal of the notation is appropriate under the circumstances. Transcript notations for expulsion shall not be removed.

Students' Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by Alfred University;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institutional representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by Alfred University, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of Alfred University;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of Alfred University.

Procedural Rights for All Reporting Individuals

Anyone reporting an incident of sexual assault, domestic or dating violence or stalking has the right to:

- A. Make a report to Alfred University's Office of Public Safety, local law enforcement and/or state police;

- B. Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual to provide information regarding:
 - i. options to proceed, including the right to make a report to Public Safety, local law enforcement, and/or state police or choose not to report; to report the incident to Alfred University; to be protected by Alfred University from retaliation for reporting an incident; and to receive assistance and resources from the University, as set out in this policy,
 - ii. where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible;
 - iii. detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;
 - iv. whether such University official is authorized to offer the reporting individual confidentiality or privacy; and
 - v. the reporting individual's other reporting options.
- C. Disclose confidentially the incident to Alfred University representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals;
- D. Disclose confidentially the incident and obtain services from the state or local government;
- E. Disclose the incident to Alfred University representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;
- F. File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate Alfred University representatives for information and assistance. Reports shall be investigated in accordance with Alfred University's policy and a reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy, subject to Alfred University's ability to meet its obligation to provide a safe, non-discriminatory environment for all members of the community;
- G. Disclose, if the accused is an employee of Alfred University, the incident to Alfred University's human resources representatives or the right to request that a confidential or private employee assist in reporting to the appropriate human resources representatives; and
- H. Receive assistance from appropriate Alfred University representatives in initiating legal proceedings in family court or civil court as provided in the University's policies.
- I. Withdraw a complaint or involvement from Alfred University's at any time.

Definitions of Terms and Processes

Policy Amendment

This policy may be amended from time to time as necessary to comply with changes in laws and/or in accordance with other applicable Alfred University policies.

Grievance resolution Committee (grc) – membership

The Grievance Resolution Committee will be appointed by the President and will be composed of faculty, staff and/or administrators either paid by or affiliated with the University. Each year the current Title IX Coordinators & Title IX Deputy Coordinator will solicit applications and nominations and will recommend members who will serve in the following year. Every effort will be made to maintain gender parity on the Committee. Appointment of new members for the next academic year will be made on an annual basis. The Title IX Coordinator and/or Title IX Deputy Coordinators shall arrange for all members to receive training prior to

assuming their responsibilities.

Amnesty

The health and safety of every student at Alfred University is of utmost importance. Alfred University realizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Alfred University strongly encourages students to report domestic violence, dating violence, stalking or sexual assault to University officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to Alfred University officials or law enforcement will not be subject to the University's conduct of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault.

Coordination of Policies

The procedures in this policy will be followed for all complaints covered by this policy, notwithstanding the provisions of otherwise applicable personnel and student life policies. In the discretion of the appropriate Title IX Deputy Coordinator, any alleged act of misconduct may be investigated and decided in conjunction with an allegation of a violation of this policy (e.g., if a person is accused of sexual assault and also property damage in conjunction with the assault, the allegation of property damage may be adjudicated in accordance with this policy).

In the case of a **tenured or tenured-track faculty member**, if the proposed sanction under this policy is "termination of tenure" or "termination of employment", then the applicable procedures in the Provisions of Faculty Appointment (8.5 of Faculty Handbook) will be followed, except that the factual findings and sanctions assigned at the conclusion of the appeal process by the Appellate Panel formed by this policy shall be accepted by the President for recommendations to the Executive Committee of the Board of Trustees.

Retaliation

Retaliation against any person or persons, who report a violation of this policy, who participates in ending a harassing situation, and/or who participates as a witness in an investigation or appeal hearing, is strictly prohibited. Alfred University views retaliatory harassment and other retaliatory actions to be a serious breach of policy and values. Any person who believes they have been subject to retaliation should immediately report the situation to the Title IX Coordinator or approach a Title IX Deputy Coordinator for further action. Title IX prohibits retaliation and Alfred University may take responsive action. An allegation that retaliation has occurred in violation of this policy will be investigated and adjudicated in accordance with the procedures set forth in this policy.

Consensual Relationships

Sexual behavior that is welcome or consensual does not constitute sexual harassment under the law. However, romantic relationships in situations where one individual has greater power or authority over another frequently result in claims of harassment when the relationship ends and often gives the perception of favoritism while the relationship continues. Such relationships are inappropriate. A "consensual" relationship between a professor and his/her student, a supervisor and a subordinate, or a coach and team player are examples of inappropriate relationships. If a consensual relationship occurs, any situation of authority must be discontinued and appropriate action may be taken. It is the responsibility of the person in the relationship with the greater authority to disclose the relationship promptly to the Title IX Coordinator and the appropriate Title IX Deputy Coordinator. Certain Departments and

Divisions of Alfred University may have policies or expectations that hold their members to more stringent standard than this policy and these higher standards will be the controlling document in such cases.

Time Frames

Alfred University endeavors to investigate and reach a determination about all complaints under this policy within a 60 calendar day period. The investigatory stage should be completed within 30 days, and the appeal process, if any, should be completed 30 days thereafter. This may not always be possible, especially if there are multiple complaints and/or incidents involved and/or due to delays necessitated by Alfred University breaks or other reasons of unavailability. All parties to the process will be notified in writing if, during the process, it becomes necessary to extend the time frame to allow for a fair and complete examination and resolution of the issues.

Training

The Title IX Coordinator is responsible for ensuring that the Title IX Deputy Coordinator, Public Safety, the Grievance Resolution Committee Members receive appropriate annual training and all the procedures and policies are followed.

Delegation of Authority

Any references in this policy to a specific title should be read to include "his/her designee". Any person to whom this policy empowers to act may delegate his/her authority to any other appropriate Alfred University official. Delegation of authority may be necessary to avoid conflicts of interest or where time constraints or other obligations prevent an Alfred University official named in this policy from fulfilling his/her designated role.

Records

Records will be maintained confidentially and protected in accordance with legal requirements and Alfred University's Records Retention Policy.

Policy Compliance

Any person with a concern about Alfred University's handling of a particular matter should contact the Title IX Coordinator or a Title IX Deputy Coordinator.

The U.S. Department of Education, Office for Civil Rights (OCR) is a federal agency responsible for ensuring compliance with Title IX. OCR is located at 400 Maryland Avenue, SW, Washington, DC 20202-1100, and can be contacted at (800) 421-3481.

Clery Act Compliance

Alfred University is required to include for statistical reporting purposes the occurrence of certain incidents in its Annual Security Report (ASR). Names of individuals involved in incidents are not reported or disclosed in ASRs. In the case of an emergency or ongoing dangerous situation, Alfred University will issue a timely warning to the campus. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the victim/complainant will not be disclosed.

Alfred University's Discrimination, Harassment and Sexual Misconduct Policy Flow Chart

Grievance Resolution Committee(GRC) members are appointed by the President of the University to oversee the administration and enforcement for the provisions of Alfred University's Discrimination, Harassment and Sexual Misconduct Policy. As a member of the committee they have the responsibility to participate in the following sub-groups when called upon:

- **Investigation Team** consists of 2 members of the GRC and a member of the Public Safety Office; the team conducts all investigations of complainants and submits the Finding Report to the appropriate Title IX/Deputy Title IX Coordinators
- **Appellate Panel** consists of 4 members of the GRC; 3 voting members and a non-voting chairperson
- **Advisor** may consist of a GRC member who assists either the complainant or respondent; an advisor can be any person of choice and does not have to be trained or a part of the GRC

A REPORT IS FILED

the appropriate Title IX Coordinator meets with the complainant and the accused (discuss action)

- student requests no action to be taken (see full policy)
- possible interim measures assigned-notification sent to involved students
- law enforcement is notified if requested or require by law
- notice of investigaiton sent to involved persons

