



# DISCRIMINATION, HARASSMENT AND SEXUAL MISCONDUCT POLICY

2021-2022

## 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](mailto:guinan@alfred.edu).

He has appointed the following as Title IX Deputy Coordinators:

[Nadine Shardlow](#), Interim Dean of Student Wellbeing, for student complaints;  
[Amy Button-Ervin](#), Associate Professor of Psychology, for faculty complaints  
[Kayleigh Jones](#), Sr. HR Generalist/Payroll Supervisor, for staff complaints  
[Marley Bender](#), Assistant Athletic Trainer, for student-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 based on 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, family members, 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 considers 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 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 infection (STI) 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 their 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 Title IX Coordinator/ Deputy Title IX Coordinator's (listed below), the Office of Public Safety, 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 their emotional and physical needs. A person seeking confidential emotional, or health care may contact the following resources.

Counseling Services 607-871-2300  
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 Coordinators; therefore, a report to a confidential resource is not a report to the University and will not result in remedial action, an investigation, or conduct 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 conduct action or request any intermediate accommodations, the person must make a report to one of the Title IX Coordinator/Deputy Title IX Coordinator's 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](mailto:guinan@alfred.edu)

##### Title IX Deputy Coordinator (students)

Dean of Student Wellbeing, Tamara Kenney 607-871-2132 [kenney@alfred.edu](mailto:kenney@alfred.edu)

##### Title IX Deputy Coordinator (staff)

Sr.HR Generalist/Payroll Supervisor, Kayleigh Jones 607-871-2276 [misner@alfred.edu](mailto:misner@alfred.edu)

##### Title IX Deputy Coordinator (faculty)

Associate Professor, Psychology, Amy Button-Ervin 607-871-2860 [button@alfred.edu](mailto:button@alfred.edu)

##### Title IX Deputy Coordinator (student-athletes)

Assistant Athletic Trainer, Marley Bender 607-871-2022 [bendermm@alfred.edu](mailto:bendermm@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 effort 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 do 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:

- 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;
- 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 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 about 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, 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, 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 and request that Alfred University take no investigatory or conduct 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 conduct action taken but may wish to have 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 conduct action without revealing the identity of the complainant. If a complainant requests that 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 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 their 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 Conduct 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 Student Wellbeing, 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 Student Wellbeing 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, conduct 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. 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 Student Wellbeing will assign sanctions to the respondent. In making a determination regarding sanctions, the Dean of Student Wellbeing 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.

### **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 their 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 their 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 effort 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 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	educational modules
conduct probation/1 semester	expulsion
conduct probation/for the duration of active status	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 semesters  
mandatory counseling/twice a month for 3 semesters  
mandatory counseling/twice a month for 4 semesters  
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

termination of contract/lawsuit for damage

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:  
persona non-grata (ban from campus)

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 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 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 their 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 60 calendar days. 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 "their designee". Any person to whom this policy empowers to act may delegate their 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 their 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 TITLE IX GRIEVANCE POLICY

## Introduction

### **What is the purpose of the Title IX Grievance Policy?**

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972 that:

- Defines the meaning of "sexual harassment" (including forms of sex-based violence)
- Addresses how this institution **must** respond to reports of misconduct falling within that definition of sexual harassment, and
- Mandates a grievance process that this institution **must** follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

See, 85 Fed. Reg. 30026 (May 19, 2020). The full text of the Final Rule and its extensive Preamble are available here: <http://bit.ly/TitleIXReg>

Based on the Final Rule, Alfred University will implement the following Title IX Grievance Policy, effective August 14, 2020.

### **How does the Title IX Grievance Policy impact other campus conduct policies?**

In recent years, "Title IX" cases have become a short-hand for any campus conduct process involving sex discrimination, including those arising from sexual harassment and sexual assault. But under the Final Rule, Alfred University must narrow both the geographic scope of its authority to act under Title IX and the types of "sexual harassment" that it must subject to its Title IX investigation and adjudication process. **Only** incidents falling within the Final Rule's definition of sexual harassment will be investigated and, if appropriate, brought to a live hearing through the Title IX Grievance Policy defined below.

Alfred University remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule.

Specifically, Alfred University has:

- A Student Conduct System that defines certain behavior as a violation of campus policy, including Alfred University's Discrimination, Harassment and Sexual Misconduct Policy and other behaviors prohibited under Alfred University's Student Life Policies & Procedures.

- Handbooks for Administrative and Technical Specialists, Faculty and Support Staff that incorporate the University's Discrimination, Harassment and Sexual Misconduct Policy.

To the extent that alleged misconduct falls outside this Title IX Grievance Policy, or misconduct falling outside the Title IX Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution retains authority to investigate and adjudicate the allegations under the policies and procedures defined within the Student Conduct Process through a separate grievance proceeding. Or the appropriate disciplinary processes of the relevant Employee Handbook. Specifically, the University's Discrimination, Harassment and Sexual Misconduct Policy may be used to investigate and adjudicate allegations that fall outside this Policy.

The elements established in the Title IX Grievance Policy under the Final Rule have no effect and are not transferable to any other policy of the University for any violation of the Code of Conduct, employment policies, or any civil rights violation except as narrowly defined in this Policy. This Policy does not set a precedent for other policies or processes of the University and may not be cited for or against any right or aspect of any other policy or process.

### **How does the Title IX Grievance Policy impact the handling of complaints?**

Alfred University's Title IX Coordinator and Deputy Title IX Coordinators and reporting structure remains in place. What has changed is the way our Title IX Coordinator or Deputy Title IX Coordinators will handle different types of reports arising from sexual misconduct, as detailed in full throughout this Policy.

Title IX Coordinator:

Mark Guinan, Director of Human Resources  
Alfred University,  
1 Saxon Drive - Greene Hall  
Alfred, NY 14802  
Office: 607-871-2909 or Cell: 607-382-0468  
[guinan@alfred.edu](mailto:guinan@alfred.edu)

Deputy Title IX Coordinators:

Tamara Kenney, Dean of Student Wellbeing, for student complaints  
Alfred University  
1 Saxon Drive – Powell Campus Center  
Alfred, NY 14802  
Office: 607-871-2132 or Cell: 585-502-4581  
[kenney@alfred.edu](mailto:kenney@alfred.edu)

Amy Button-Ervin, Associate Professor of Psychology, for faculty complaints  
Alfred University  
1 Saxon Drive, Science Center  
Alfred, NY 14802  
Office: 607-871-2213  
[button@alfred.edu](mailto:button@alfred.edu)

Kayleigh Jones, Sr. HR Generalist/Payroll Supervisor, for staff complaints

Alfred University  
1 Saxon Drive -Greene Hall  
Alfred, NY 14802  
Office: 607-871-2276  
[misner@alfred.edu](mailto:misner@alfred.edu)

Marley Bender, Assistant Athletic Trainer for student-athlete complaints  
Alfred University  
1 Saxon Drive -McLane Center  
Alfred, NY 14802  
Office: 607-871-2193  
[bendermm@alfred.edu](mailto:bendermm@alfred.edu)

## **1. The Title IX Grievance Policy**

### **General Rules of Application**

#### **Effective Date**

This Title IX Grievance Policy became effective on August 14, 2020, and will only apply to complaints of sexual harassment with allegations related to incidents or events that occurred on or after August 14, 2020. Complaints brought prior to August 14, 2020 will be investigated and adjudicated according to the Alfred University's Discrimination, Harassment and Sexual Misconduct Policy if not completed by that date.

#### **Revocation by Operation of Law**

Should any portion of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), be stayed or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require the elements of this policy, this policy, or the invalidated elements of this policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date if a case is not complete by that date of opinion or order publication. Should the Title IX Grievance Policy be revoked in this manner, any conduct covered under the Title IX Grievance Policy shall be investigated and adjudicated under the existing Student Conduct Process.

#### **Non-Discrimination in Application**

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

### **Definitions**

#### **Covered Sexual Harassment**

For the purposes of this Title IX Grievance Policy, "covered sexual harassment" includes any conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning educational aid, benefits or services on participation in unwelcome sexual conduct (i.e., quid pro quo);
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity;
3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving affirmative consent. Sexual assault consists of the following specific acts:
  - a. Rape. The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim;
  - b. Fondling. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or mental capacity. Private body parts include genital area, anus, groin, buttocks and breast and includes touch over or under clothing.
  - c. Statutory Rape. Non-forcible sexual intercourse with a person who is under the age of 17.
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the Clery Act), means violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under New York State's domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of New York State.
6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

**Note** that conduct that does not meet one or more of these criteria may still be prohibited under Alfred University's Student Conduct System or the University's expectations of employees as outlined in the various employee handbook(s).

### **Consent**

For the purposes of this Title IX Grievance Policy, "consent" or "affirmative consent" means 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 the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, 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 is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. 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. 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 cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

**Confidentiality** may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to Alfred University officials, in a manner consistent with State and Federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors and medical providers are examples of Alfred University employees who may offer confidentiality.

**Incapacitation** occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily restrained, if any of the parties are under the age of 17, or if an individual otherwise cannot consent.

**Preponderance of the Evidence** is the standard of proof in sexual and interpersonal violence cases, which asks whether it is "more likely than not" that the violence occurred. If the evidence presented meets this standard, then the accused/respondent should be found responsible.

**Privacy** may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this Policy, the Student Code of Conduct and other relevant student and employee policies, and other applicable laws, including informing appropriate University officials.

**Retaliation** is adverse action against another person for reporting a violation or for participating in any way in the investigation or conduct process. Retaliation includes harassment and intimidation, including but not limited to violence, threats of violence, property destruction, adverse educational or employment consequences, and bullying.

### **Education Program or Activity**

For the purposes of this Title IX Grievance Policy, Alfred University "education program or activity" includes:

- Any on-campus premises

- Any off-campus premises that Alfred University has substantial control over. This includes buildings or property owned or controlled by a recognized student organization.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of Alfred University's programs and activities over which Alfred University has substantial control.

### **Formal Complaint**

For the purposes of this Title IX Grievance Policy, "formal complaint" means a document – including an electronic submission - filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent about conduct within Alfred University's education program or activity and requesting initiation of the procedures consistent with the Title IX Grievance Policy to investigate the allegation of sexual harassment.

### **Complainant**

For the purposes of this Title IX Grievance Policy, Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

### **Relevant evidence and questions**

"Relevant" evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

"Relevant" evidence and questions do not include the following types of evidence and questions, which are deemed "irrelevant" at all stages of the Title IX Grievance Process:

- Evidence and questions about the complainant's sexual predisposition or prior sexual behavior unless:
  - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
  - They concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. 34 C.F.R. § 106.45(6)(i).
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally recognized privilege.
- Any party's medical, psychological, and similar records unless the party has given voluntary, written consent. 85 Fed. Reg. 30026, 30294 (May 19, 2020).

### **Respondent**

For the purposes of this Title IX Grievance policy, Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual

harassment as defined under this policy.

### **Privacy vs. Confidentiality**

Consistent with Alfred University's Student Conduct Process, references made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean Alfred University offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator, who is responsible for tracking patterns and spotting systemic issues. Alfred University will limit the disclosure as much as practicable, even if the Title IX Coordinator or a Deputy Title IX Coordinator determines that the request for confidentiality cannot be honored.

Under this Policy, complainants, respondents, and their advisors of choice are entitled to receive all evidence gathered in connection with allegations in a formal complaint, including witness statements and notes of interviews, investigation reports and final determinations and any sanctions imposed on a respondent found responsible for a violation of this Policy.

### **Disability Accommodations**

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator and/or a Deputy Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator and/or a Deputy Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

### **Making a Report Regarding Covered Sexual Harassment to the Institution**

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator or a Deputy Title IX Coordinator, or by any other means that results in the Title IX Coordinator or a Deputy Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator or a Deputy Title IX Coordinator:

Title IX Coordinator:

[Mark Guinan](#), Director of Human Resources  
Alfred University  
1 Saxon Drive - Greene Hall  
Alfred, NY 14802  
Office: 607-871-2909 or Cell: 607-382-0468

Deputy Title IX Coordinators:

Tamara Kenney, Dean of Student Wellbeing, for student complaints  
Alfred University  
1 Saxon Drive  
Powell Campus Center  
Alfred, NY 14802  
Office: 607-871-2132  
Cell: 585-502-4581  
[kenney@alfred.edu](mailto:kenney@alfred.edu)

Amy Button-Ervin, Associate Professor of Psychology, for faculty complaints  
Alfred University  
1 Saxon Drive -Science Center  
Alfred, NY 14802  
Office: 607-871-2213  
[button@alfred.edu](mailto:button@alfred.edu)

Kayleigh Jones, Sr. HR Generalist/Payroll Supervisor, for staff complaints  
Alfred University  
1 Saxon Drive -Greene Hall  
Alfred, NY 14802  
Office: 607-871-2276  
[misner@alfred.edu](mailto:misner@alfred.edu)

Marley Bender, Assistant Athletic Trainer, for student-athlete complaints  
Alfred University  
1 Saxon Drive -McLane Center  
Alfred, NY 14802  
Office: 607-871-2193  
[bendermm@alfred.edu](mailto:bendermm@alfred.edu)

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator or a Deputy Title IX Coordinator.

### **Confidential Reporting**

The following Officials **cannot provide confidentiality** upon receiving a report of conduct prohibited under this policy; if a formal complaint is not filed, the following Officials will provide privacy to the extent possible as more fully provided in the section of this Policy entitled "Privacy vs. Confidentiality", and if a formal complaint is filed, the following Officials must provide certain information to all parties and their advisors, as more fully described in this Policy:

Title IX Coordinator:

[Mark Guinan](#), Director of Human Resources  
Alfred University  
1 Saxon Drive - Greene Hall  
Alfred, NY 14802  
Office: 607-871-2909 or 607-382-0468 Cell

Deputy Title IX Coordinators:

Tamara Kenney, Dean of Student Wellbeing, for student complaints  
Alfred University  
1 Saxon Drive – Powell Campus Center  
Alfred, NY 14802  
Office: 607-871-2132 or Cell: 585-502-4581  
[kenney@alfred.edu](mailto:kenney@alfred.edu)

Amy Button-Ervin, Associate Professor of Psychology, for faculty complaints  
Alfred University  
1 Saxon Drive, Science Center  
Alfred, NY 14802  
Office: 607-871-2213  
[button@alfred.edu](mailto:button@alfred.edu)

Kayleigh Jones, Sr. HR Generalist/Payroll Supervisor, for staff complaints  
Alfred University  
1 Saxon Drive -Greene Hall  
Alfred, NY 14802  
Office: 607-871-2276  
[misner@alfred.edu](mailto:misner@alfred.edu)

Marley Bender, Assistant Athletic Trainer, for student-athlete complaints  
Alfred University  
1 Saxon Drive -McLane Center  
Alfred, NY 14802  
Office: 607-871-2193  
[bendermm@alfred.edu](mailto:bendermm@alfred.edu)

The following Officials **may provide confidentiality**:

- Wellness Center – Health Services  
607-871-2400
- Wellness Center – Counseling Services  
607-871-2300

Confidential Off-Campus Resources

- Allegany County Crisis Center's 24-Hour Hotline  
888-945-3970
- Rape Crisis of the Southern Tier  
888-810-0093

Other Resources

- New York State Police Sexual Assault Hotline  
844-84507269
- New York State Domestic Violence Hotline  
800-942-6906

- New York State Office of Victim Services  
800-247-8035

- Sexual Assault & Violence Response Resource (SAVR)
  - (type in zip code {14802} for Alfred resources)

### **Non-Investigatory Measures Available Under the Title IX Grievance Policy**

#### **Supportive Measures**

Supportive measures are measures offered by the University that are intended to restore or preserve, to the extent practicable, equal access to the University's educational programs and activities and protect the safety of all parties without unreasonably burdening any other party.

Complainants (as defined above), who report allegations that could constitute covered sexual harassment under this policy, have the right to receive supportive measures from Alfred University regardless of whether they desire to file a complaint.

Once a respondent is informed of a report or formal complaint, the respondent will be contacted by a Title IX Coordinator or Deputy Title IX Coordinator and offered supportive measures from Alfred University.

Supportive Measures may include, but not be limited to:

- assistance seek counseling
- extensions of deadlines or other course-related adjustments
- modifications of work or class schedules
- change in on-campus housing accommodations
- campus escort services
- restrictions on contact between the parties (no contact orders)
- changes in work or housing locations
- leaves of absence
- increased security and monitoring of certain areas of the campus

*Supportive measures are non-conduct action and non-punitive.*

The Title IX Coordinator or Deputy Title IX Coordinator who discusses the availability of supportive measures with a party will be responsible for coordinating the implementation of the supportive measures within the University.

#### **Emergency Removal**

Alfred University retains the authority to remove a respondent from Alfred University program or activity on an emergency basis, where Alfred University: (1) undertakes an individualized safety and risk analysis; and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal.

If Alfred University determines such removal is necessary, the respondent will be provided

notice and an opportunity to challenge the decision immediately following the removal. The challenge will be governed using the Appeals process under the Discrimination, Harassment and Sexual Misconduct Policy.

### **Administrative Leave**

Alfred University retains the authority to place a non-student employee respondent on administrative leave during the Title IX Grievance Process, consistent with guidelines outlined in the relevant employee handbook.

## **The Title IX Grievance Process**

### **Filing a Formal Complaint**

The timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) business days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a complainant must provide the Title IX Coordinator or a Deputy Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of Alfred University, including as an employee. For complainants who do not meet this criterion, the University will utilize existing policy under the University's Discrimination, Harassment and Sexual Misconduct Policy and applicable provisions under the Student Code of Conduct or the relevant employee handbook. Specifically, the University may use its Discrimination, Harassment and Sexual Misconduct Policy.

If a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. Alfred University will inform the complainant of this decision in writing, and the complainant need not participate in the process further.

Nothing in the Title IX Grievance Policy or Alfred University's Student Conduct Process prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

The institution may consolidate Formal Complaints alleging covered sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

### **Determining Jurisdiction**

The Title IX Coordinator or a Deputy Title IX Coordinator will determine if the instant Title IX Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator or a Deputy Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020;

2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred within Alfred University's education program or activity; and
4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all of the elements are met, Alfred University will investigate the allegations according to the Grievance Process.

#### **Allegations Potentially Falling Under Two Policies:**

If the alleged conduct, if true, includes conduct that would constitute behaviors covered by this Policy and behaviors covered by the University's Discrimination, Harassment and Sexual Misconduct Policy, this Policy will be applied in the investigation and adjudication of all of the allegations.

#### **Mandatory Dismissal**

If any one of these elements are not met, the Title IX Coordinator or a Deputy Title IX Coordinator will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Policy. Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

#### **Discretionary Dismissal**

The Title IX Coordinator or a Deputy Title IX Coordinator may dismiss a Formal Complaint brought under the Title IX Grievance Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint, or any allegations raised in the Formal Complaint;
- The respondent is no longer enrolled or employed by Alfred University; or,
- If specific circumstances prevent Alfred University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process set forth in "Appeals," below.

#### **Notice of Dismissal**

Upon reaching a decision that the Formal Complaint will be dismissed, Alfred University will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their institutional email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

#### **Notice of Removal**

Upon dismissal for the purposes of Title IX, Alfred University retains discretion to utilize Student Conduct process to determine if a violation of the conduct system has occurred in

cases where the respondent is a student. For dismissals for the purposes of Title IX where the respondent is an employee, the University retains the discretion to utilize the applicable employee handbook to determine whether a violation of a university policy occurred. If so, Alfred University will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Grievance Process and removal of the allegations to the conduct process.

### **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 sexual harassment or 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 sexual harassment, 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 sexual harassment, 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 sexual harassment, domestic violence, dating violence, stalking or sexual assault.

### **Notice of Allegations**

The Title IX Coordinator or a Deputy Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable, after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The parties will be notified by their institutional email accounts if they are a student or employee, and by other reasonable means if they are neither.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator or a Deputy Title IX Coordinator may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations. Complainants may appeal Notices of Dismissal using the appeal process described in this Policy.

### **Contents of Notice**

The Notice of Allegations will include the following:

- Notice of the institution's Title IX Grievance Process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct

allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.

- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, as required under 34 C.F.R. § 106.45(b)(5)(iv);
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source, as required under 34 C.F.R. § 106.45(b)(5)(vi);

### **Ongoing Notice**

If, in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the Title IX Grievance Policy, the institution will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

### **Advisor of Choice and Participation of Advisor of Choice**

Alfred University will provide both parties equal access to advisors or support persons; any restrictions on advisor or a support person participation will be applied equally.

Alfred University has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of Alfred University.

Alfred University will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for either party are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

Alfred University's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and Alfred University cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or a Deputy Title IX Coordinator. Alfred University will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice and may offer the party the opportunity to obtain a different Advisor of

Choice or utilize one provided by Alfred University.

### **Notice of Meetings and Interviews**

Alfred University will provide, to a party whose participation is invited or expected and such party's advisor, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

### **Delays**

Each party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator, Dean of Student Wellbeing, or a Deputy Title IX Coordinator) provided that the requestor provides reasonable notice, and the delay does not overly inconvenience other parties.

For example, a request to take a five day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted.

The Title IX Coordinator, Dean of Student Wellbeing, or a Deputy Title IX Coordinator shall have sole judgment to grant further pauses in the Process.

## **Investigation**

### **General Rules of Investigations**

An investigator designated by the Title IX Coordinator, or a Deputy Title IX Coordinator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.

Alfred University and not the parties, has the burden of proof and the burden of gathering evidence, i.e., the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from Alfred University and does not indicate responsibility.

Alfred University cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. Alfred University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e., evidence that tends to prove and disprove the allegations) as described below.

### **Inspection and Review of Evidence**

Prior to the completion of the investigation, the parties and their respective advisor will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence

that is directly related to the allegations raised in the Formal Complaint. It will include any:

1. Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility.
2. inculpatory or exculpatory evidence (i.e., evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties must submit any evidence they would like the investigators to consider prior to when the parties' time to inspect and review evidence begins. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

The institution will send the evidence made available for each party and each party's advisor, if any, to inspect and review through an electronic format or a hard copy, depending on the type of evidence. Alfred University is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The parties will have ten (10) business days to inspect and review the evidence and submit a written response by email to the investigators. The investigators will consider the parties' written responses before completing the Investigative Report.

Alfred University will provide the parties five (5) business days after the initial inspection and review of evidence, and before the investigators completes their Investigative Report, to provide additional evidence in response to their inspection and review of the evidence, and then provide the parties five (5) business days to inspect, review, and respond to the party's additional evidence through a written response to the investigator. Those written responses will be disclosed to the parties. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors agree not to photograph or otherwise copy the evidence. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

### **Inclusion of Evidence Not Directly Related to the Allegations**

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint may be summarized in the appendices to the investigative report based on the judgment of the investigator.

### **Investigative Report**

The Title IX Coordinator and/or investigators designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence, will and provide that Report to the parties and their respective advisor at least ten (10) business days prior the hearing in an electronic format or a hard copy for each party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigators, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e., tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

The investigator may redact irrelevant or unrelated information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant. See, 85 Fed. Reg. 30026, 30304 (May 19, 2020).

## **Hearing**

### **General Rules of Hearings**

Alfred University will not issue a conduct sanction arising from an allegation of covered sexual harassment without holding a live hearing and the decision-maker makes a determination of responsibility of the respondent for a violation of this Policy or any other violation under the Student Code of Conduct.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at Alfred University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through Zoom or Skype. This technology will enable participants simultaneously to see and hear each other. At its discretion, Alfred University may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded through audio recording. That recording will be made available to the parties for inspection and review by appointment with the Dean of Student Wellbeing.

When obtaining access to any evidence, the University will rely on the good judgment of its students, employees and their advisors to keep the testimony of others or evidence confidential except for purposes related to the grievance process under this Policy.

### **Continuances or Granting Extensions**

Alfred University may determine that multiple sessions or a continuance (i.e., a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, Alfred University will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

### **Newly discovered Evidence**

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

For students, the Chair of the University Student Conduct Board will consider this request, for faculty/staff Mark Guinan, Director of Human Resources will consider this request. A determination will be made regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly discovered evidence or witness has the burden of establishing these questions by the

preponderance of the evidence.

If the Chair of the University Student Conduct Board (for students) and Mark Guinan, Director of Human Resources (for employees) answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

### **Participants in the live hearing**

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

### **Complainant and Respondent (The Parties)**

- The parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a party and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "statement" by that party. 85 Fed. Reg. 30026, 30361 (May 19, 2020).
  - For example, A verbal or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint.
- Alfred University will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party's participation. See 34 C.F.R. § 106.71; see also 85 Fed. Reg. 30026, 30216 (May 19, 2020).
- If a party does not submit to cross-examination, the decision-makers cannot rely on any prior statements made by that party in reaching a determination regarding responsibility but may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that party.
- The decision-makers cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions. See 34 C.F.R. § 106.45(b)(6)(i).

### **The Decision-Makers**

- The decision-maker for complaints where the respondent is a student will consist of a panel of three (3) members of the University Student Conduct Board
- For complaints where the respondent is employed by the University and not a student, the decision-maker will be Mark Guinan, Director of Human Resources
- No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigators, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.

- No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The parties will have an opportunity to raise any objections regarding a decision-maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

#### *Advisor of choice*

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The advisor's role is limited to consulting with their advisee and cross-examining the other party.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- An advisor's questioning of the other party and any witness must be conducted in a respectful and non-abusive manner. If the decision-maker determines that an advisor's behavior is not proper, the advisor may be required to leave the hearing and the hearing will either proceed with a university appointed advisor to conduct questioning on behalf of the party or will be adjourned temporarily until another advisor can be present.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf. 85 Fed. Reg. 30026, 30340 (May 19, 2020).
- If neither a party nor their advisor appear at the hearing, Alfred University will provide an advisor to appear on behalf of the non-appearing party solely for the purpose of conducting questioning on behalf of that party as provided in this Policy. See, 85 Fed. Reg. 30026, 30339-40 (May 19, 2020).

#### *Witnesses*

- Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation. See, 85 Fed. Reg. 30026, 30360 (May 19, 2020).
- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing. 85 Fed. Reg. 30026, 30347 (May 19, 2020).

## **Hearing Procedures**

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- The decision-maker will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- Members of the panel will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after Members of the University Student Conduct Board conducts its initial round of questioning; During the Parties' cross-examination, Members of the University Student Conduct Board will have the authority to pause cross-examination at any time for the purposes of asking decision-maker's own follow up questions; and for determining the relevance of questions; and any time necessary in order to enforce the established rules of decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Chair of the University Student Conduct Board
- A Party's waiver of cross-examination does not eliminate the ability of the University Student Conduct Board panel to use statements made by the Party.

### **Live Cross-examination Procedure**

Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross-examination the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Before any cross-examination question is answered, the Chair of University Student Conduct Board will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by University Student Conduct Board may be deemed irrelevant if they have been asked and answered.

### **Review of Audio Recording**

The audio recording/ of the hearing will be available for review by the parties within ten (10) business days, unless there are any extenuating circumstances. Neither the audio recording of the hearing nor any copy of it will be given to parties or advisors of choice.

## **Determination Regarding Responsibility**

### **Standard of Proof**

Alfred University uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred.

### **General Considerations for Evaluating Testimony and Evidence**

While the opportunity for cross-examination is required in all Title IX hearings,

determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the University Student Conduct Board.

The University Student Conduct Board shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e., tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

The Final Rule requires that Alfred University allow parties to call "expert witnesses" Alfred University does not provide for expert witnesses in other proceedings. The expert witness will be allowed to testify if the expert advice they are providing is relevant to the allegations in the formal complaint. Any party intending to call an expert to testify at a hearing must give the University at least five days prior notice by informing the investigator.

While an expert witness providing relevant expert opinions will be allowed to testify and be crossed as required by the Final Rule, the decision-makers will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that Alfred University allow parties to call character witnesses to testify. Alfred University does not provide for in person character witnesses in other proceedings. While the character witnesses will be allowed to testify and be crossed as required by the Final Rule, the decision-makers will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that Alfred University admit and allow testimony regarding polygraph tests ("lie detector tests") and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the decision-makers will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a party or witness' conduct or statements demonstrate that the party or witness is

engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the University Student Conduct Board may draw an adverse inference as to that party or witness' credibility.

### **Components of the Determination Regarding Responsibility**

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means as necessary and to their respective advisors of choice. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of this Policy, the Student Code of Conduct or the relevant employee handbook, if any, the respondent has or has not violated.
5. For each allegation:
  - a. A statement of, and rationale for, a determination regarding responsibility;
  - b. A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the respondent; and
  - c. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
6. The recipient's procedures and the permitted reasons for the complainant and respondent to appeal (described below in "Appeal").

### **Sanctions and Remedies**

The following are examples of the range of sanctions that may be imposed upon respondents:

- a. Written or verbal warnings
- b. Probation
- c. Suspension or administrative leave
- d. Expulsion or termination
- e. Mandated counseling
- f. A Keep Away restriction
- g. Loss of privileges or other similar restrictions

In addition, remedies can be granted to the complainant that are comparable to the supportive measures offered to the parties at the outset of the grievance process outlined in this Policy.

### **Timeline of Determination Regarding Responsibility**

If there are no extenuating circumstances, the determination regarding responsibility will be issued by Alfred University within ten (10) business days of the completion of the hearing.

## Finality

The determination regarding responsibility becomes final either on the date that the institution provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

## Appeals

Each party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal to the Title IX Coordinator or the Dean of Student Wellbeing **within five (5) business days** of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e., a failure to follow the institution's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- The sanction is too severe (appeal from the respondent) or the sanction is too lenient (appeal from the complainant).

The submission of appeal puts on hold any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Both parties will be given a reasonable, equal opportunity to submit a written statement in support of or challenging, the determination based on the limited grounds for appeal.

Written statements may be no longer than ten (10) pages (including attachments). Appeals should be submitted in electronic form using Times New Roman, 12-point font, and single-spaced. Appeals should use footnotes, not endnotes. Appeals that do not meet these standards may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by an Appellate Panel as set forth under the University's Discrimination, Harassment and Sexual Misconduct Policy, who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter.

Outcome of appeal will be provided in writing simultaneously to both parties and include rationale for the decision and no further appeals are allowed.

### **Employee Appeals Process**

When an employee of the University is found to be responsible for violating the Title IX Grievance Policy by a hearing committee the employee may be sanctioned to one of the following sanctions by the Title IX Coordinator:

Staff and Non-Tenure Track Faculty:

- Verbal Warning, Document Filed
- Written Warning, Document Filed
- Suspension with or without pay 1-4 months
- Termination

Tenured and Tenure Track Faculty:

- Verbal Warning, Document Filed
- Written Warning, Document Filed
- Restriction from designated areas of the campus from 6-24 months
- Revocation of Tenure
- Termination

An employee, either faculty or staff, who disagrees with the sanction resulting from a finding of responsibility for violating the Alfred University Title IX Grievance Policy may file a written appeal, within ten (10) calendar days outlining the reason that the sanction was incorrect. Grounds for appeal are limited to new evidence that was not known at the time of the hearing and which could have changed the finding, the sanction was too lenient for the finding, or the sanction was too severe for the finding.

This appeal process is available to both the Respondent and the Complainant. Once a written appeal has been made the Vice President of Business and Finance or, in the case of an employee of the Business and Finance Division, the University President will meet with the appellant and hear any evidence that they wish to produce. The Vice President for Business and Finance or the President will make a decision, which will be final, within 5 working days of the meeting.

In the case of a tenured faculty member whose sanction includes either revocation of tenure or termination the University President, in consultation with the Human Resources Committee of the Board of Trustees, will make the decision.

### **Retaliation**

Alfred University will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education

Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Title IX Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX, or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

Complaints alleging retaliation related to allegations made under this Policy or proceedings under this Policy may be filed under and pursuant to the provisions of this Policy.

Rights of Parties under Section 129-b of the New York State Education Law Incorporated into this Policy.

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 below. Our Center for Academic Success (607-871-2148) can assist persons with disabilities.

### **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](mailto:guinan@alfred.edu)

Title IX Deputy Coordinator (students) Dean of Student Wellbeing, Tamara Kenney 607-871-2132  
[kenney@alfred.edu](mailto:kenney@alfred.edu)

Title IX Deputy Coordinator (staff) Sr.HR Generalist/Payroll Supervisor, Kayleigh Jones 607-871-2276  
[misner@alfred.edu](mailto:misner@alfred.edu)

Title IX Deputy Coordinator (faculty) Associate Professor, Psychology, Amy Button-Ervin 607-871-2860  
[button@alfred.edu](mailto:button@alfred.edu)

Title IX Deputy Coordinator (student-athletes) Assistant Athletic Trainer, Marley Bender 607-871-2193  
[bendermm@alfred.edu](mailto:bendermm@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.

### **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, nondiscriminatory 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 at any time.