

# ALFRED UNIVERSITY'S TITLE IX GRIEVANCE POLICY

## 2020 Regulations Rev. 2/2025

### 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:

Tom Johnson [johnsont@alfred.edu](mailto:johnsont@alfred.edu)

Deputy Title IX Coordinators:

Thomas Orrange, Dean of Student Experience Alfred University  
1 Saxon Drive – Powell Campus Center Alfred, NY  
14802  
Office: 607-871-2132 or Cell: 585-502-4581  
[orange@alfred.edu](mailto:orange@alfred.edu)

Deb Drain, Chief Human Resources Officer Alfred University  
1 Saxon Drive, Greene Hall Alfred, NY  
14802  
Office: 607-871-2909  
[drain@alfred.edu](mailto:drain@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, including attempted acts, 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. Sodomy. The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly, and/or against that person's will (non-consensually), or not forcibly against the person's will in circumstance in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - c. 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.
  - d. 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 other University policies.

### **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.

**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 attempted or actual 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.
- Off-campus university-sponsored events

- 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:

Tom Johnson  
johnsont@alfred.edu

Deputy Title IX Coordinators:  
Thomas Orrange, Dean of Student Experience Alfred  
University  
1 Saxon Drive – Powell Campus Center Alfred, NY  
14802  
Office: 607-871-2132 or Cell: 585-502-4581  
[orange@alfred.edu](mailto:orange@alfred.edu)

Deb Drain, Chief Human Resources Officer Alfred  
University  
1 Saxon Drive, Greene Hall

Alfred, NY 14802  
Office: 607-871-2909  
[drain@alfred.edu](mailto:drain@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. Reports can also be made online by going to:  
[https://cm.maxient.com/reportingform.php?AlfredUniv&layout\\_id=7](https://cm.maxient.com/reportingform.php?AlfredUniv&layout_id=7)

### Confidential Reporting

The following Officials **may provide confidentiality**:

- Wellness Center – Health Services 607-871-2400
- Wellness Center – Counseling Services 607-871-2300
- University Ombudsperson(s) are designed confidential under this policy
  - Designation as a confidential resource under this policy only exempts such individuals from disclosure to the Title IX Coordinator. It does not affect other mandatory reporting obligations under state child abuse reporting laws, the Clery Act as a campus security authority, or other laws that require reporting to campus or local law enforcement.

### 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)  
Tom Johnson, [johnsont@alfred.edu](mailto:johnsont@alfred.edu)

Title IX Deputy Coordinator  
Chief Human Resources Officer, Deborah Drain, 607-871-2909 [drain@alfred.edu](mailto:drain@alfred.edu)

Title IX Deputy Coordinator  
Dean of Student Experience, Thomas Orrange, 607-871-2985 [orrange@alfred.edu](mailto:orrange@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 Employee 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 Employee 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
- 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.

## **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 seeking 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 and before August 1, 2024;
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**

Alfred University must dismiss a formal complaint or any allegations therein if, at any time, during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy above, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by Alfred University (including buildings or property controlled by recognized student organizations), and/or Alfred University does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of Alfred University

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 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.

Both parties may appeal a dismissal of the Formal Complaint or a specific allegation following the procedures outlined in the “Appeal” section of this policy.

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 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 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 or a Deputy Title IX Coordinator shall have the 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. 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.

Given the sensitive nature of the information provided, Alfred University will facilitate this review in a secure manner. Neither the parties nor their advisors may copy, remove, photograph, print, image, videotape, record, or in any manner otherwise duplicate or remove the information provided. Any student or employee who fails to abide by this may be subject to discipline. Any Advisor who fails to abide by this may be subject to discipline or may be excluded from further participation in the process

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.

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

### **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 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 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).

The Parties may choose to provide a written response to the investigative report, which must be submitted at least five (5) business days prior to the start of the hearing. The response may consist of a written statement not to exceed 2500 words. If a party has objections to evidence included or excluded from the investigation report, it should be included in this response as well. New evidence or rebuttal evidence will not be considered at this time. The Chair will review the objections to relevance and at least 48hrs prior to the hearing will issue a decision regarding whether to include or exclude the evidence in question. The Chair will ensure any evidence deemed newly relevant at this time is shared with both parties

### **Notice of Hearing**

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, or received in-person, notice will be presumptively delivered. The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.
- Description of any technology that will be used to facilitate the hearing
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker(s) on the basis of demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Chair may reschedule the hearing in their discretion.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and Alfred University will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-maker(s) will review during any sanction determination.
- An invitation to request a pre-hearing meeting with the Chair to review the hearing protocol with an Advisor present
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether parties can/cannot bring mobile phones/devices into the hearing.

## 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 an online meeting platform.

This technology will enable participants to see and hear each other simultaneously. At its discretion, Alfred University may delay or adjourn a hearing based on technological errors that are 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 Title IX Coordinator or

a Deputy Coordinator.

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.

The Decision-Maker will consider this request and make a determination regarding:

- whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and
- 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 Decision-Maker 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. Alternatively, should the newly discovered evidence require additional fact-gathering, the Decision-Maker may send the case back to the investigator for any further investigation as may be required. In this case, the investigator will issue an amended Investigation Report, to which the Parties shall have an opportunity to respond. Depending on the amount of new evidence, Alfred University may shorten the second review and response period, as determined by the Title IX Coordinator. The amended Investigation Report, along with any response(s), shall then be provided to the Parties, their Advisor, and to the Decision-Maker.

### **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
- Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning
- 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).

- 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-Maker(s)**

- The decision-maker(s) may be an internal or externally trained individual(s) who is appointed by the Title IX Coordinator or Deputy Title IX Coordinator.
- The Title IX Coordinator or Deputy Title IX Coordinator may appoint one or three individuals to a case. In circumstances where there are three decision-makers, the Title IX Coordinator or Deputy Title IX Coordinator will appoint one decision-maker as the Chair of the hearing.
- At the Chair's discretion or at the request of a party, pre-hearing meetings may be scheduled with their advisor to explain the hearing protocol.
- No decision-maker 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 decision-maker 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 prior to the live hearing. To challenge the appointment of a decision-maker in advance of the hearing, a party must submit a written statement detailing the rationale for the objection to the Title IX Coordinator no later than five business days prior to the hearing. The Title IX Coordinator will only remove a Decision- maker if they conclude that there is a bias or conflict of interest that precludes an impartial hearing of the allegation(s).
- At the live hearing, parties may have the opportunity for challenge or recusal of a Decision- Maker on the basis of bias or conflict of interest. The Chair of the hearing will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

### *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).

### **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, through their Advisor, will be given the opportunity for live cross-examination
  - During the Parties' cross-examination, Decision-maker(s) 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
- A Party's waiver of cross-examination does not eliminate the ability of the Decision-Maker(s) 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 will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the Decision-maker(s) 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**

Any evidence that the Decision-maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition; 3) questions or evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility as long as it is not otherwise subject to exclusion under this Policy. This evidence can include, but is not limited to, opinions and statements in police reports or other official reports, medical records/reports, court records and filings, emails, text messages, video, written statements, affidavits, social media postings, and other similar documents.

The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

Within the boundaries stated above, the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process, and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker(s) at the sanction stage of the process when a determination of responsibility is reached.

After the post-hearing deliberation, the Decision-maker(s) render(s) a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

### **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**

Dismissals of complaints and determinations made in the investigation and decision making processes may be appealed in writing by either party. Appeals will be sent to the Title IX Coordinator, who will then send the appeal to the Appeals Officer assigned to conduct a written review of the appeal(s) and to make a final determination. Appeals must be in writing and filed within ten (10) days following the issuance of the outcome letter.

When an appeal is filed, the other party shall be notified and provided with a copy of the filed appeal and have five (5) days to respond to the appeal in writing. Any party’s decision not to submit a reply to an appeal is not evidence that the non-appealing party agreed with the appeal.

Within three (3) days of an Appeal Officer being assigned, either party may provide written objection to the Appeal Officer on the basis of an actual bias or conflict of interest. Any objection is to be sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will appoint another Appeal Officer.

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 Appeal Officer will make a determination regarding the appeal and communicate that decision, along with a rationale for the decision to the Title IX Coordinator who will communicate the Appeal Officer’s decision to the parties. The decision of the Appeals Officer is final.

### **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:

Tom Johnson  
johnsont@alfred.edu

Deputy Title IX Coordinators:

Thomas Orrange, Dean of Student Experience Alfred  
University  
1 Saxon Drive – Powell Campus Center Alfred, NY  
14802  
Office: 607-871-2132 or Cell: 585-502-4581  
[orange@alfred.edu](mailto:orange@alfred.edu)

Deb Drain, Chief Human Resources Officer Alfred  
University  
1 Saxon Drive, Greene Hall Alfred, NY  
14802  
Office: 607-871-2909  
[drain@alfred.edu](mailto:drain@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. Reports can also be made online by going to:

[https://cm.maxient.com/reportingform.php?AlfredUniv&layout\\_id=7](https://cm.maxient.com/reportingform.php?AlfredUniv&layout_id=7)

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.

### **Revision of the Policy and Procedures**

Alfred University reserves the right to make changes to the Policy as necessary. Once changes are posted online, they are in effect. During the resolution process, the Title IX Coordinator (or designee) may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party such as to accommodate summer schedules.

The Title IX Coordinator (or designee) may also vary procedures materially with notice (on the University's website with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in the Policy and procedures.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, the document will be construed to comply with the most recent government regulations or holdings.

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