



# ALMA COLLEGE

## Civil Rights & Title IX Policy

Policies and procedures for resolving:

- Discrimination
- Harassment, and
- Sexual Misconduct

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**PLEASE NOTE:**

Anywhere in these policies and procedures where the Civil Rights/Title IX Coordinator is referred to, it is assumed that this refers to the Civil Rights/Title IX Coordinator or designee. The designee will usually be a Deputy Civil Rights/Title IX Coordinator, but may not be in all instances. Anyone executing the responsibilities outlined in these policies and procedures will be trained to serve in that capacity.

Additionally, the term Hearing Authority can refer to a single hearing agent or a hearing panel chair or panel.

A complainant(s) may be referred to as a reporting party(s) and a respondent may be referred to as a responding party.

**Community Member:**

A community member is defined as anyone who is not a currently enrolled student, or employee of the college. The term community member includes former students, alumni, contractors, parents, fans at athletic events, and any other visitor to campus. When a community member is accused of violating a policy, the College will take steps to remedy the situation including possibly banning the community member from campus grounds, and any college affiliated activities. In cases where a ban occurs the College will work with campus safety, and the Alma Police Department to ensure the safety of the campus.

**Policy and Procedures for All Students, Faculty, and Employees:**

Policy on Equal Opportunity, Harassment and Nondiscrimination

Alma College affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the Alma College’s Equity Resolution Process, as detailed below. The Equity Resolution Process is applicable regardless of the status of the parties involved, who may be members or non-members of the campus community, students, student organizations, faculty, administrators and/or staff. Alma College reserves the right to act on incidents occurring on-campus or off-campus, when the off-campus conduct could have an on-campus impact or impact on the educational mission of Alma College.

The Civil Rights/Title IX Coordinator oversees implementation of Alma College’s Affirmative Action and Equal Opportunity plan, disability compliance and Alma College’s policy on equal opportunity, harassment and nondiscrimination. Reports of discrimination, harassment and/or retaliation should be made to the Civil Rights/Title IX Coordinator or Vice President of Human Resources promptly. There is no time limitation on the filing of a complaint, as long as the accused individual remains

subject to Alma College's jurisdiction. All reports are acted upon promptly and every effort is made by the College to preserve the confidentiality of reports. Anonymous reports may also be filed online, using the reporting form posted at <https://www.alma.edu/civil-rights/file-a-report/anonymous-reporting-form/>. Reporting is addressed more specifically on pg. 11, Section 7. Reports of discrimination by the Civil Rights/Title IX Coordinator should be reported to the College President at (989) 463-7146.

In May of 2020, the U.S. Department of Education issued new regulations for colleges and universities that address sexual assault and other gender-based misconduct. These regulations cover certain specific forms of gender-based misconduct. To comply with these regulations, Alma College revised its existing policy for those types of misconduct. In addition, the College maintains the "Civil Rights and Sexual Misconduct Policy" for other types of discrimination and gender-based misconduct that are not covered by the 2020 regulations. Both policies are important to creating and supporting a College community that rejects all forms of gender-based misconduct.

Unless noted, this policy applies to behaviors that take place on the campus, at college-sponsored events, and may also apply to off-campus and ~~to~~ actions online, when the Civil Rights/Title IX Coordinator determines that the off-campus conduct affects a substantial Alma College interest. A substantial Alma College interest is defined as:

- a) Any action that constitutes a criminal offense as defined by federal or state of Michigan law;
- b) Any situation where it appears that the accused individual may present a danger or threat to the health or safety of oneself or others;
- c) Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder.
- d) Any situation that is detrimental to the educational interests of Alma College;
- e) Any online postings or other electronic communication by students — including cyber-bullying, cyber-stalking, cyber-harassment, etc. — occurring completely outside of the Alma College's control (e.g., not on Alma College networks, websites or between Alma College email accounts) will only be subject to this policy when those online behaviors can be shown to cause a

substantial on-campus disruption or when it violates the college's harassment policy; or

- f) Off-campus discriminatory or harassing speech by employees may be regulated by Alma College when such speech is made in an employee's official or work-related capacity or when it violates the college's harassment policy.

Inquiries about this policy and procedures may be made internally to:

Dave Blandford  
Civil Rights/Title IX Coordinator  
Director of Student Engagement  
Office Location: Tyler-Van Dusen Campus Center  
(989) 463-7251  
Email: [blandford@alma.edu](mailto:blandford@alma.edu)

Inquiries may be made externally to:

**Office for Civil Rights (OCR)**  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

**Equal Employment Opportunity Commission (EEOC)**

Contact: <http://www.eeoc.gov/contact/>

**1. Reporting Misconduct**

Any member of the community, guest, or visitor who believes that the policy on Equal Opportunity, Harassment and Nondiscrimination has been violated, should contact the Civil Rights/Title IX Coordinator, the Vice President of Human Resources, or a member of the Case Management Team. It is also possible for employees to notify a supervisor, or for students to notify a staff or faculty member. These individuals will in turn notify the Civil Rights/Title IX Coordinator. The Alma College website also includes a reporting form at <https://www.alma.edu/civil-rights/file-a-report/formal-reporting-form/>, which may serve to initiate a complaint.

All employees receiving reports of a potential violation of Alma College policy are expected to promptly contact the Civil Rights/Title IX Coordinator, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with the maximum possible privacy. Specific information on any allegations received by any party will be reported to the Civil Rights/Title IX Coordinator; subject to the College's obligation to redress violations, every effort will be made to maintain the privacy of those initiating a report. In all cases, Alma College will give consideration to the reporting party, with respect to how the reported misconduct is pursued. The College reserves the right, when necessary, to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

## **2. Supportive Measures**

The Civil Rights/Title IX Coordinator may provide supportive measures intended to address the short-term effects of harassment, discrimination, and/or retaliation, i.e., to redress harm to the parties involved and the community, and to prevent further violations. These supportive measures may include, but are not limited to

- Referral to Wilcox Health Center, counseling or to the Employee Assistance Program.
- No Contact Orders or limiting contact limitations between the parties.
- Academic or work schedule and assignment accommodations.
- Living arrangement adjustments.
- Providing campus escorts.
- Offering adjustments to academic deadlines, course schedules, etc.
- Increased security and monitoring of certain areas of campus.
- Education to the community.

## **3. Statement of Rights for the Complainant(s) and the Respondent(s)**

Both parties have many of the same rights under this process. Those rights include

- To be treated with respect by Alma College officials.
- To have the allegations treated neutrally until sufficient evidence is gathered and weighed.
- To access campus support resources (such as Wilcox Health Center, the Chaplain and Director of Spiritual Life, or Employee Assistance Program (EAP) services for employees).
- To have a support person, process advisor, or legal counsel present during any meetings or hearings that may occur as part of this process.

- To have legal counsel advise them whether or not to answer questions. (Please note, legal counsel may only participate in the process as an advisor, outlined above.).
- To request reasonable supportive measures, and accommodations, due to disability.
- To refuse to have an allegation resolved through the alternative resolution process.
- To have their case handled in a forthright and timely manner.
- To receive advance notice of any meetings in which they are entitled to participate and the purpose of those meetings.
- To provide statements, evidence, and information as part of the investigation.
- To know the specific charges being issued and the range of potential sanctions should a violation be found.
- To review evidence and other information obtained during the investigation in order to prepare for the hearing.
- To rebut written materials presented in a hearing.
- To file a written appeal to the Civil Rights/Title IX Coordinator.
- To be informed in writing of the outcome/resolution of the allegation, sanctions where permissible, and the rationale for the outcome where permissible.

#### **4. Amnesty for Minor Policy Violations**

To encourage reporting of alleged sexual misconduct, relationship violence, and stalking violations, neither the reporting party, nor witnesses will face referrals for action under the policies outlined in the Student Handbook if they personally engaged in the unlawful or prohibited use of alcohol, drugs, or other minor violations (Quiet Hours, etc.) during the incident when the alleged violation occurred. Additionally, accused students will not face additional referrals for action under the Student Handbook policies if they personally engaged in the unlawful or prohibited minor misconduct during the incident when the alleged violation occurred. More serious violations of Student Handbook policies will still result in a referral for appropriate action.

#### **5. Advisors**

Each party is allowed to have an advisor of their choice present with them for all meetings and proceedings, from intake through to final determination. The Civil Rights/Title IX Coordinator will assign a trained Case Management Team member to work as an advisor/advocate upon the request of any party. The parties may alternatively select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually not otherwise involved in the resolution process, such as serving as a witness. The parties may choose advisors from inside



or outside the campus community and may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. Alma College cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, Alma College is not obligated to provide one.

All advisors are subject to the same campus rules, whether or not they are attorneys. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. During hearings, advisors are invited to conduct cross-examination toward parties and witnesses. Cross-examination involves asking relevant case-related questions, as approved by the Administrative Hearing Officer or Panel Chair (hereafter referred to as Hearing Authority). Advisors will ask a question aloud, and then the Hearing Authority will either advise the party or witness to answer the question or provide a rationale for why the question is not permitted. The Hearing Authority's decision about a question's relevance is final. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. Subsequently, the Civil Rights/Title IX Coordinator will determine whether the advisor may be reinstated or may be replaced by a different advisor.

Alma College expects an advisor to adjust their schedule to allow them to attend meetings when scheduled. Alma College does not typically change scheduled meetings to accommodate an advisor's inability to attend. Reasonable provisions will be made, however, to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). A party may elect to change advisors during the process and is not required to use the same advisor throughout. The parties must provide timely notice to investigators if they change advisors at any time.

## **6. Campus Coordination and Response Team**

Alma College has a highly trained team in place to implement and execute all aspects of this policy. The Campus Coordination and Response Team consists of the Civil Rights and Title IX Coordinator, Deputy Civil Rights and Title IX Coordinators, and the Case Management Team.

### **Civil Rights and Title IX Coordinator**

Dave Blandford  
Civil Rights/Title IX Coordinator  
Director of Student Engagement  
Office Location: Tyler-Van Dusen Campus Center  
(989) 463-7251  
Email: blandford@alma.edu

### **Deputy Coordinators**

The Civil Rights/Title IX Coordinator is supported by college employees who serve as Deputy Coordinators. Each Deputy Coordinator is knowledgeable and trained in state and federal laws that apply to matters of sexual misconduct, as well as this policy and the complaint resolution process. The Deputy Coordinators assist the Civil Rights/Title IX Coordinator with carrying out the responsibilities described in this Policy. The current Deputy Coordinators are:

Dr. Kelley Peatross  
Deputy Civil Rights/Title IX Coordinator  
Vice President of Human Resources  
Office Location: Centennial House  
(989) 463-7255  
Email: peatrosska@alma.edu

Alice Kramer  
Deputy Civil Rights/Title IX Coordinator  
Assistant Vice President for Student Engagement  
Office Location: Tyler-Van Dusen Campus Center  
(989) 463-7579  
Email: krameram@alma.edu

Dr. Jonathan Glenn  
Deputy Civil Rights/Title IX Coordinator  
Director of Diversity and Inclusion  
Office Location: Tyler-Van Dusen Campus Center  
(989) 463-7463  
Email: glennjb@alma.edu

Kiana Verdugo  
Deputy Civil Rights/Title IX Coordinator  
Associate Athletic Director for Compliance and Operations  
Office Location: Hogan Center  
(989) 463-7265  
Email: verdugoks@alma.edu

Dr. Brianna Harfmann  
Deputy Civil Rights/Title IX Coordinator  
Assistant Professor of Integrative Physiology and Health Science  
Office Location: McIntyre Center for Health Science  
(989) 463-7159

### **Case Management Team**

The Case Management Team is made up of college employees who volunteer, and receive significant training related to all aspects of the resolution process, and can serve in any of the following roles, at the direction of the Civil Rights/Title IX Coordinator:

- To provide sensitive intake and initial advice pertaining to allegations.
- To serve as conflict or alternative resolution mediator.
- To investigate reports of misconduct.
- To act as advisors to those involved in the resolution process.
- To serve on hearing panels for allegations.
- To serve on appeal panels for allegations.

Case Management Team members also recommend policies and serve in an educative role for the community. All Case Management Team members are required to attend annual training. The list of members will be posted on the Alma College website when the members of the Case Management Team have been trained and agree to serve. Individuals who are interested in serving on the Case Management Team are encouraged to contact the Civil Rights/Title IX Coordinator.

## **Grand River Solutions**

With our commitment to providing a safe and positive environment for students, faculty and staff on the top of our minds, and complying with all relevant federal and state laws banning discrimination in private institutions of higher education at the forefront, we have partnered with Grand River Solutions in handling Title IX cases and related practices.

[Grand River Solutions](#) is a highly recognized, national consulting firm, based in Grand Rapids that has extensive experience with and specializes in Title IX, equity, student conduct, DEI and Clery Act support services for colleges and universities.

In exploring this partnership, it was important for us to maintain a strong sense of personalization for the unique Alma College community. Grand River will work “behind the scenes,” providing support for investigations and facilitating hearings, while our local deputies will serve as the main points of contact for Title IX cases on Alma College's campus. The new process will allow for Title IX cases to retain the sense of consistency they currently have, while benefitting the mental health and well-being of our volunteers, who currently expend quite a bit of time and energy in doing this work.

We believe this new partnership will only improve the Title IX process on campus. It will also allow the college to better adhere to ever-evolving regulations at the federal level and ensure that Title IX cases are resolved faster than ever before on our campus. Let this partnership signify Alma College's renewed commitment to equity and justice, allowing us all to continue to grow and do better.

## **7. Scope and Jurisdiction**

Alma College adheres to all federal and state civil rights laws banning discrimination in private institutions of higher education. Alma College will not discriminate against any employee or applicant for employment, student or applicant for admission on the basis of race, color, sex, religion, national or ethnic origin, physical or mental disability, age, height, weight, marital status, sexual orientation, gender, gender identity, parental status, arrest record, genetic information, or any other protected category under applicable local, state or federal laws; including protections for those opposing discrimination or participating in any resolution process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community, guest or visitor who acts to deny, deprive or limit the educational, employment, residential and/or social access, benefits and/or opportunities of any member of the campus community on the basis of their actual or perceived membership in the protected classes listed above, is in violation of Alma College policy on nondiscrimination. When brought to the attention of Alma College, any such discrimination will be appropriately remedied by Alma College according to the procedures below.

Per federal guidelines, this policy applies to behaviors that are reported to have occurred on Alma College's campus or off-campus when the College has control over the location (i.e., athletic competitions, off-campus study within the U.S., etc.). If reported behavior is determined not to fall within this jurisdiction, it may be referred through other campus processes for redress (Student Conduct, Human Resources, Faculty Personnel Committee, etc.).

## **8. Alma College Policy on Accommodation of Disabilities**

Alma College is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The Civil Rights/Title IX Coordinator has been designated as the ADA/504 Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any report alleging noncompliance.

### **a. Students with Disabilities**

Alma College is committed to providing qualified students with disabilities, with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of the Alma College.

All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Assistant Director of Student Success, who coordinates services for students with disabilities. A representative from that office reviews documentation provided by the student and, in consultation with the student, determines what accommodations are appropriate to the student's particular needs and academic programs considering timing and cost of the accommodations.

### **b. Employees with Disabilities**

Pursuant to the ADA, Alma College will provide reasonable accommodation(s) to all qualified employees with known disabilities where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation in writing to the Vice President of Human Resources and providing appropriate documentation. The Vice President of Human Resources will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

c. Guests with Disabilities

Guests with disabilities may contact the organizer of the event they are attending to request appropriate accommodations for each event.

**9. Alma College Statement on Relationships**

It is a violation of Alma College policy to pursue a sexual or amorous relationship in situations where professional power differentials are inherent. Alma College will investigate all allegations or reports of sexual misconduct. The findings that result from the college's investigation may lead to charges of violating campus policies, which may be grounds for dismissal or other sanctions. If you are aware of a relationship that you believe violates college policy, please contact the Alma College Civil Rights/Title IX Coordinator immediately. See <https://www.alma.edu/civil-rights/>.

Alma College acknowledges its responsibility to provide clear direction to the College community about the professional risks associated with amorous and/or sexual relationships in which a power differential between the parties exists.

A professional power differential exists in any situation where one individual has authority over another individual's employment, grades, career, academic or other college-sponsored opportunities, particularly when professional supervision and evaluation are part of the relationship. While not an exhaustive list, a few examples include:

- Faculty and students,
- Teaching assistants and students in their class,
- Coaches and student athletes,
- Department directors and employees in their sector, or
- Supervisors and individuals who report to them.

Alma College is committed to fostering the development of learning and work environments in which behavior is professional, ethical and free of discrimination. Amorous/sexual relationships that might be appropriate in other circumstances are inappropriate when they occur between any faculty, staff member, or student enrolled at the College (hereafter named supervisor) and any student or supervisee

for whom he or she has professional (i.e., evaluative or supervisory) responsibility, for the following three reasons:

- a. **Questionable Voluntary Consent.** There are inherent risks in any amorous or sexual relationship between individuals in unequal positions (such as faculty or staff and student, or supervisor and supervisee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to an amorous or sexual involvement, this past consent does not remove grounds for a later charge of a violation of applicable sections of this or other Alma College policy.

When a supervisor uses threats to coerce his or her student or supervisee into a relationship, overt sexual harassment has occurred. However, even when the relationship appears to be consensual, fear of retaliation by the supervisor may be one of the factors that motivate the student or supervisee to allow the relationship to begin or continue. In such circumstances, the relationship would not be fully consensual.

- b. Adverse Impact on Educational Climate. The impact of an amorous and/or sexual relationship between any supervisor and any student or supervisee for whom he or she has professional responsibility may extend beyond the individuals in a relationship. If students, supervisees, or others are made aware of such relationships, perceptions of unfairness may arise. The dynamics of the learning or work climate may be disrupted, leading to a hostile work or learning environment.
- c. Conflict of Interest. Conflicts of interest may arise in connection with consensual amorous and/or sexual relationships between supervisors and students or supervisees for whom they have professional responsibility. When a decision is made or altered on the basis of the relationship rather than an objective standard of performance, a conflict of interest exists. Much like the potential adverse impact of a relationship on the educational climate, even the appearance of a conflict of interest can create perceptions of unfairness that lead to a hostile work or learning environment for others.

Pre-existing employee relationships. Supervisors must also take steps to ensure that issues described above do not arise from any amorous and/or sexual

relationship in which they are already involved. Thus, for instance, job performance evaluations of a partner in a relationship should be delegated to a suitable colleague; and a partner should take a course from someone other than the instructor with whom she or he is involved. When this is impossible, supervising and/or grading responsibility must be delegated to a suitable colleague. Failure to promptly self-report such relationships to a supervisor when professional power differentials may result in disciplinary action for an employee.

## **11. Alma College Policy on Discriminatory Harassment**

Alma College protects the following classes under Alma College policy: race, color, sex, religion, national or ethnic origin, physical or mental disability, age, height, weight, marital status, sexual orientation, gender, gender identity, arrest record, genetic information, or any other protected category under applicable local, state or federal laws. Students, staff, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. Alma College's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment that are also prohibited under Alma College policy.

### **a. Discriminatory and Bias-Related Harassment**

Harassment constitutes a form of discrimination that is prohibited by law. Alma College will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, the college may also impose sanctions on the harasser. Alma College's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment may be created by oral, written, graphic, or physical conduct<sup>1</sup> that is sufficiently severe, persistent/pervasive, and objectively offensive

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<sup>1</sup> Examples are provided to illustrate the policies within. Examples are not based on actual cases.

Potential instances of discriminatory or harassing behavior include, yet are not limited to

- Belittling or degrading remarks, verbal abuse, or other hostile behavior such as insulting, teasing, mocking, degrading, or ridiculing another person's race, religion, ethnicity, culture, or other protected identities.
- Racial slurs, derogatory remarks about a person's accent, or displaying objectively offensive symbols.
- Displays or electronic transmission of derogatory, demeaning or hostile materials.



that it interferes with, limits, or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits, or opportunities.<sup>2</sup>

Offensive conduct and/or harassment that does not rise to the level of discrimination or that is of a generic nature not on the basis of a protected status may not result in the imposition of discipline under College policy, but will be addressed through civil confrontation, remedial actions, education, and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the Vice President of Human Resources and students should contact the Student Life Office for referral to the appropriate staff.

Alma College condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by college policy or law.

Violations include:

b. Sexual Harassment

Both the Equal Employment Opportunity Commission and the State of Michigan regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. Alma College has adopted the following definition of sexual harassment, in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.<sup>3</sup>

Sexual harassment is uninvited and unwelcome verbal or physical behavior of a sexual nature that satisfies one or more of the following:

- 
- Inappropriate attention to one's race, religion, ethnicity, or national origin, or abilities, such as asking an individual to speak for all who have a shared identity.
  - Providing only examples of positive behaviors by those of a dominant identity and negative behavior by those of a marginalized identity.

<sup>2</sup> This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students at Educational Institutions Investigative Guidance. The document is available at <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

<sup>3</sup> Also of relevance is the Office of Civil Rights 2001 statement on sexual harassment, "Revised Sexual Harassment Guidance: Harassment Of Students By School Employees, Other Students, Or Third Parties, Title IX," which can be found at <https://www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf>, as well as the April, 2011 Dear Colleague Letter on Campus Sexual Violence, which can be found at: [http://www.whitehouse.gov/sites/default/files/dear\\_colleague\\_sexual\\_violence.pdf](http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf)

(1) Anyone on Alma College's campus who conditions the provision of aid, benefit, or service on an individual's participation in unwelcome sexual conduct;

(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Alma College's education program or activity; or

(3) Sexual assault, dating violence, domestic violence or stalking as defined as...<sup>4</sup> Anyone experiencing sexual harassment in any Alma College program is encouraged to report it immediately to the College's Title IX Coordinator.

State law defines various violent and/or non-consensual sexual acts as crimes. Generally speaking, Alma College considers Sexual Assault violations to be the most serious, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, Alma College reserves the right to impose any level of sanction, ranging from a reprimand, up to and including suspension or expulsion/termination, for any act of sexual harassment or other gender-based offenses, including intimate partner or relationship (dating and/or domestic) violence, non-consensual sexual contact, and stalking, based on the facts and circumstances of the particular report. Acts of sexual harassment may be committed by any person upon any other

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<sup>4</sup> These examples are provided to illustrate the policies herein. These examples are not based on any actual cases. Some examples of possible Sexual Harassment include:

- A professor insists or suggest that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
- Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door.
- Two supervisors frequently "rate" several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A student spies on someone else while showering or while they are engaging in sexual behavior without their consent.
- A professor engages students in his/her class or in an advising session in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. He/She probes for explicit details, and demands that students answer him/her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
- A male student grabbed a female student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved.

i. Sexual Assault

Sexual assault is defined as any sexual act directed against another person, without consent, including instances where the person(s) is incapable of giving consent. This behavior includes:

a. Non-Consensual Sexual Intercourse

Defined as:

- any sexual penetration or intercourse (anal, oral, or vaginal),
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force.

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.

b. Non-Consensual Sexual Contact<sup>5</sup>

Defined as:

- any intentional sexual touching,
- however slight,
- with any object,
- by a person upon another person,
- that is without consent and/or by force.

Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

ii. Consent<sup>6</sup>

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<sup>5</sup> The state definition of sexual assault, defined as Criminal Sexual Conduct – MCL § 750.520 and found at [http://www.legislature.mi.gov/\(S\(vze4ko55xovsd555lwvpubrd\)\)/mileg.aspx?page=getobject&objectname=mcl-750-520a](http://www.legislature.mi.gov/(S(vze4ko55xovsd555lwvpubrd))/mileg.aspx?page=getobject&objectname=mcl-750-520a), is applicable to criminal prosecutions for Criminal Sexual Conduct in Michigan, but may differ from the definition used on campus to address policy violations.

<sup>6</sup> The state definition of consent, found within MCO 750.520 and found at [http://www.legislature.mi.gov/\(S\(vze4ko55xovsd555lwvpubrd\)\)/mileg.aspx?page=getobject&objectname=mcl-750-520a](http://www.legislature.mi.gov/(S(vze4ko55xovsd555lwvpubrd))/mileg.aspx?page=getobject&objectname=mcl-750-520a), is applicable to criminal prosecutions for sex offenses in Michigan, but may differ from the definition used on campus to address policy violations.

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

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

It is not an excuse that the individual responding party of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other. Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue; and, if that happens, the other person must stop immediately.

In the state of Michigan, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old is a crime, as well as a violation of this policy, even if the minor wanted to engage in the act.

iii. Intimate Partner Violence

Intimate partner violence is defined as acts of physical or emotional violence<sup>7</sup> between individuals involved in an intimate or sexual relationship. This includes acts of domestic violence<sup>8</sup> or dating violence as defined below:

- a. Domestic Violence includes violence committed by
  - i. a current or former spouse or intimate partner of the victim,
  - ii. by a person with whom the victim shares a child in common,
  - iii. by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
  - iv. by a person similarly situated to a spouse of the victim, or
  - v. any other case as defined by state of Michigan law.
- b. Dating Violence includes violence committed by
  - i. a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - ii. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    1. The length of the relationship.
    2. The type of relationship.
    3. The frequency of interaction between persons involved in the relationship.

iv. Stalking<sup>9</sup>

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to feel fear for their safety or the safety of others; or suffer substantial emotional distress.<sup>10</sup>

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<sup>7</sup> Physical violence includes, but is not limited to, pushing, punching, hitting, slapping, biting, threatening or restraining. Unwelcome play fighting may also constitute physical violence. Emotional violence includes name-calling, controlling behavior, photographing or video recording sex or intimate acts without the consent of the partner, or sharing photos or videos of intimate acts without the consent of the partner.

<sup>8</sup> The state definition of domestic violence (which includes dating violence) MCL§ 750.81 and 750.81 (a), found at [http://www.legislature.mi.gov/\(S\(vze4ko55xovsd5551wvpubrd\)\)/mileg.aspx?page=getobject&objectname=mcl-750-81](http://www.legislature.mi.gov/(S(vze4ko55xovsd5551wvpubrd))/mileg.aspx?page=getobject&objectname=mcl-750-81), is applicable to criminal prosecutions for domestic violence in Michigan, but may differ from the definition used on campus to address policy violations.

<sup>9</sup> The state definition of stalking is MCL §750.411 (h-i), found at [http://www.legislature.mi.gov/\(S\(0w11qpm3df2feert1rxpkmjs\)\)/mileg.aspx?page=getobject&objectname=mcl-750-81](http://www.legislature.mi.gov/(S(0w11qpm3df2feert1rxpkmjs))/mileg.aspx?page=getobject&objectname=mcl-750-81), is applicable to criminal prosecutions for stalking in Michigan, but may differ from the definition used on campus to address policy violations.

<sup>10</sup> Examples

- Jamie recently ended an intimate relationship with Morgan. For the past three weeks, Morgan has been sending Jamie multiple text messages per day and waits by Jamie's car at the end of each day to beg and

## **11. Other Civil Rights Offenses, When the Act is Based upon the Status of a Protected Class**

- Threatening or causing physical harm, extreme verbal abuse or other conduct that threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class.
- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of their actual or perceived membership in a protected class.
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another, on the basis of actual or perceived membership in a protected class.
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within Alma College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the hazing policy) on the basis of actual or perceived membership in a protected class; hazing is also illegal under state of Michigan law and prohibited by Alma College policy.
- Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally, on the basis of actual or perceived membership in a protected class.
- Any other Alma College rules, when a violation is motivated by the actual or perceived membership of the reporting party on the basis of sex or gender or in a protected class, may be pursued using this policy and process.

Sanctions for the above-listed “Other Civil Rights Behaviors” behaviors range from reprimand up through and including expulsion (students) or termination of employment.

## **12. Retaliation**

Retaliation is defined as any adverse action taken against a person participating in a protected activity, because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party reporting misconduct, or for assisting in providing information relevant to a claim of harassment, is a serious violation of Alma College policy and will be treated as

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plead to take them back. When Jamie refuses, Morgan makes threatening gestures, and tells Jamie that they will regret this. Jamie indicates she is fearful of what Morgan might do to her (Stalking).

- Mark is a student on campus who has always been fascinated by women with blonde hair. One day, he notices MaryLou, whose hair is blonde. He follows her home to see where she lives, and begins to track her history, actions, and movements online. His fascination increases to the point where he follows her frequently on campus, takes pictures of her without her permission, and spies through her window at night with a long-range camera lens.

another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Civil Rights/Title IX Coordinator or to the Vice President of Human Resources and will be promptly investigated. Alma College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

### **13. Corrective Action**

Alma College will implement initial corrective and responsive and/or protective actions upon notice of alleged harassment, retaliation, and/or discrimination. Such actions could include but are not limited to:

- no contact orders,
- providing counseling and/or medical services,
- academic support,
- living arrangement adjustments,
- providing a campus escort,
- academic or work schedule and assignment accommodations,
- safety planning, or
- referral to campus and community support resources.

Alma College will take additional prompt corrective and/or disciplinary action with respect to any member of the community, guest, or visitor who has been found to engage in harassing or discriminatory behavior or retaliation. Procedures for handling reported incidents are fully described below. Deliberately false and/or malicious accusations of harassment, as opposed to reports which, even if erroneous, are made in good faith, are just as serious an offense as harassment and will be subject to appropriate disciplinary action.

### **14. Confidentiality and Reporting**

Alma College officials, depending on their roles at Alma College, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, one should be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless you have requested information to be shared. Other resources exist for one to report crimes and policy violations, and these resources will take action when one reports victimization to them. The following describes the three reporting options at Alma College:

#### **a. Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with the Wilcox Health Center service providers, off-

campus local rape crisis counselors, off-campus domestic violence resources, local or state assistance agencies, the campus Chaplain and Director of Spiritual Life, or off-campus clergy members who will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Campus counselors are available during normal business hours. In case of an emergency students or employees may call Women's Aid Service at (989) 463-6014. The Employee Assistance Program (<https://www.alma.edu/offices/human-resources/current-employees/>) is available to help free of charge and can refer individuals to resources on an emergency basis 24 hours a day. These employees will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

b. Formal Reporting Options

Parties reporting misconduct are encouraged to speak to Alma College officials, such as the Civil Rights/Title IX Coordinator, to make formal reports of incidents covered by this policy. The party reporting misconduct has the right, and can expect to have reports taken seriously by Alma College when formally reported, and to have those incidents investigated and properly resolved through these procedures. Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared, as necessary, with investigators, witnesses, and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve the rights and privacy of the party reporting misconduct. Additionally, safe and anonymous reports, which likely do not trigger investigations, can be made by those impacted and/or third parties using the online reporting form posted at <https://www.alma.edu/civil-rights/file-a-report/anonymous-reporting-form/>.

## **15. Timely Warning Obligations**

Those who experience sexual misconduct should be aware that Alma College administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. Alma College will make every effort to ensure that names and other identifying information are not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.



# **Equity Resolution Process for Resolving Reports of Harassment, Sexual Harassment, and other Forms of Discrimination**

Alma College will act on any formal or informal report or notice of violation of the policy on the Title IX and Civil Rights Policy that is received by the Civil Rights/Title IX Coordinator, or Vice President of Human Resources, or a member of the administration.

The procedures described below will apply to all reports of potential misconduct involving students, staff or faculty members. Redress and requests for responsive actions for reports made against non-members of the community are also covered by these procedures.

## **1. Reporting Misconduct**

Any member of the community, guest, or visitor who believes that the policy on Equal Opportunity, Harassment and Nondiscrimination has been violated, should contact the Civil Rights/Title IX Coordinator, the Vice President of Human Resources, or a member of the Case Management Team. It is also possible for employees to notify a supervisor, or for students to notify a staff or faculty member. These individuals will in turn notify the Civil Rights/Title IX Coordinator. The Alma College website also includes a reporting form at <https://www.alma.edu/civil-rights/file-a-report/formal-reporting-form/>, which may serve to initiate a complaint.

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

## **2. Intake**

Following receipt of notice or a report of misconduct, the Civil Rights/Title IX Coordinator<sup>11</sup>, or Deputy Coordinator, will engage in a preliminary inquiry to determine if there is reasonable cause to believe this policy has been violated. Normally, within two business days, an initial determination is made whether a policy violation may have occurred and/or whether conflict resolution might be appropriate. If the allegation does not appear to allege a policy violation or if conflict resolution is desired by the reporting party and appears appropriate given the nature of the alleged behavior, then the allegation does not proceed to investigation.

A full investigation will be pursued if there is evidence of a pattern of misconduct or a perceived threat of further harm to the community or any of its members. Alma College is committed to resolving all investigations in a timely manner, with notice to the parties by the Civil Rights/Title IX Coordinator of any extensions and their rationale.

Supportive measures will be offered to all parties as part of the intake process.

## **3. Interim Suspensions**

In rare cases Alma College may temporarily suspend a student, employee, or organization pending the completion of the Case Management Team investigation and procedures. The process is detailed as follows:

- The Civil Rights/Title IX Coordinator, or designee, will engage in an individualized safety and risk analysis to determine if there is an immediate threat to the health or safety of anyone within the campus community.
- During an interim suspension or administrative leave, a student or employee may be denied access to Alma College housing and/or the Alma College campus/facilities/events. As determined by the appropriate administrative officer, Civil Rights/Title IX Coordinator, or designee, this restriction includes classes and/or all other Alma College activities or privileges for which the student might otherwise be eligible.
- In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the opportunity to meet with the Civil Rights/Title IX Coordinator, to show cause why the suspension should not be implemented.

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<sup>11</sup> If circumstances require, the President or Civil Rights/Title IX Coordinator may designate another person to oversee the process below, should an allegation be made against the Coordinator or the Coordinator is otherwise unavailable or unable to fulfill their duties.

- For allegations involving respondents who are students at Alma College: the Vice President for Student Affairs or designee has sole discretion to implement or stay an interim suspension, and to determine its conditions and duration.
- At the discretion of the Provost, or designee, alternative coursework options may be pursued to ensure as minimal an impact as possible on the accused student.
- For allegations involving responding parties who are employees of Alma College: the Vice President of Human Resources or the Senior Vice President and Chief Operating Officer (COO) has sole discretion to implement or stay an interim suspension, and to determine its conditions and duration.
- Violation of an interim suspension under this policy will be grounds for expulsion or termination.

#### **4. Formal Complaint**

At an intake meeting, via mail, e-mail, or using an electronic form, reporting parties will be asked to sign a formal complaint. To sign a formal complaint, a reporting party must be participating in, or attempting to engage in Alma College's educational programs.<sup>12</sup> A reporting party does not have to identify a responding party to file a formal complaint. While a formal complaint is not required for someone to access supportive measures from Alma College, this formal complaint is required in order for the College to pursue a formal investigation or an informal resolution. In some cases the Civil Rights/Title IX Coordinator may also sign a formal complaint.

#### **5. Investigation**

Once the decision is made to commence a formal investigation, the Civil Rights/Title IX Coordinator appoints investigators. Investigations are completed expeditiously, though some investigations may take longer, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

Alma College may undertake a short delay when criminal charges, on the basis of the same behaviors that invoke this process, are being investigated. Alma College action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. All investigations will be thorough, reliable, and impartial; they will entail interviews with all relevant parties and witnesses, obtaining available evidence, and identifying sources of expert information, if necessary.

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<sup>12</sup> Engaging or attempting to engage in educational programs may include being enrolled as a student, engaging in alumni programs and activities, someone who expresses a desire to re-enroll.

## **6. Preliminary Investigative Report**

After the investigators have gathered all pertinent evidence, they will generate a preliminary report. The preliminary report will include all relevant evidence collected during the investigation. The preliminary report will not contain any findings. The parties will be provided with an opportunity to review the preliminary report and respond. Typically, the report will be provided to each party electronically. Parties are expected to maintain the privacy of this document and may not distribute this document. Unauthorized distribution of this document may result in referral to the appropriate office for disciplinary action.

The parties may each submit comments, feedback, additional documentary evidence, requests for additional steps in the investigation, names of additional witnesses, or any other information they deem relevant to the investigator(s), within five (5) calendar days after the preliminary report is made available for review. The Civil Rights/Title IX Coordinator or designee may, at their discretion, waive or adjust the time limit for the feedback. In the event new, relevant information is provided or identified by one of the parties, the information will be incorporated into the preliminary report and the parties will be provided a second and final opportunity to review and provide feedback regarding the new information before the investigators proceed with finalizing the report.

## **7. Resolution**

During or upon the completion of investigation, the investigators will submit their report to the Civil Rights/Title IX Coordinator who will decide on whether there is reasonable cause to initiate a formal hearing. The Title IX/Civil Rights Coordinator may also return the report to the investigators for more investigation. If there is reasonable cause, the Civil Rights/Title IX Coordinator will recommend alternative resolution, a resolution without a hearing or a formal hearing, based on the below criteria. Either party may appeal this decision by providing notice in writing.

### **a. Alternative Resolution**

As an option to resolve a complaint of discrimination or harassment under Civil Rights/Title IX, the parties may request to attempt Alternative Resolution. Alternative Resolution is a voluntary-structured resolution process that may be pursued after the filing of a formal complaint and prior to a formal hearing on the allegations. Alternative Resolution uses other dispute resolution mechanisms, such as mediation, facilitated dialogue, or shuttle diplomacy. The alternative resolution process is intended to be flexible while also providing for a full range of possible outcomes.

The following are the parameters by which an alternative resolution may be conducted.

1. The Civil Rights/Title IX Coordinator may offer the parties the opportunity to become involved in an alternative resolution process. Both complainant and respondent must agree to pursue an alternative resolution, and this agreement must be voluntary, informed, and in writing. The Title IX Coordinator will determine if an Informal Resolution is appropriate given the allegations.
2. The Title IX Coordinator will assign a trained facilitator to supervise the informal resolution process. The facilitator will present the option of an Alternative Resolution and proposed terms to each party independently and in writing. All related communication will go through the facilitator. Participation in an alternative resolution is voluntary for all parties. If either party does not agree with the proposed terms, or is uninterested in engaging in negotiations, they may continue with the formal grievance process at any time before signing the Alternative Resolution Agreement.
3. Alternative Resolution is never available to resolve allegations that an employee sexually harassed a student.
4. The complainant and/or respondent may have an advisor of their choice attend any meetings as part of the informal resolution as a support person. The parties, however, are responsible for presenting their own information, and advisors are not permitted to cross-examine or question any party, nor can they participate directly in the alternative resolution process.
5. Either party may withdraw, without penalty, from the Alternative Resolution up until a written resolution agreement is signed by both parties. If either party withdraws from the Alternative Resolution, the formal grievance process will resume.
6. The facilitator(s) and the Civil Rights/Title IX Coordinator have the authority to end the resolution process if they believe that one or both parties are not operating in good faith. If this happens, the formal grievance process will resume.
7. Both parties and the facilitator(s) will have an opportunity to offer proposals to become a part of the final outcome(s)/agreement. An Alternative Resolution agreement may include, but is not limited to, an admission of responsibility, an admission of false allegations, disciplinary/punitive sanctions, counseling, and involvement in an educational program.
8. The facilitator(s) and both parties must all agree to the outcome(s) of the alternative resolution. In doing so, the facilitator will write a binding

agreement based upon the parties' verbal agreement with the negotiated outcome(s). Separately, both parties will then be offered the opportunity to sign this Alternative Resolution agreement. If either party refuses to sign this agreement, the alternative resolution will be considered failed and the grievance process will resume.

9. Once an Alternative Resolution agreement has been signed by both parties, the terms of the agreement are binding on both parties, and failure to abide by the terms of the resolution may be referred to the appropriate College process for review and possible application of corrective action or sanction(s).
10. The content of discussions held as part of the alternative resolution process will be kept as confidential and cannot be introduced as evidence in any formal resolution process should informal resolution be unsuccessful.
11. Either party may request a specific form of alternative resolution by submitting the online form or contacting the Title IX Coordinator. Once a request has been received, the request will be shared to the other party, who may choose to move forward with Alternative Resolution or decline to do so. Both parties must consent to alternative resolution in writing prior to any attempts at alternative resolution.

### **Types of Alternative Resolution (AR)**

**Facilitated Dialogue:** This form of AR is most appropriate when both parties are comfortable with direct interaction and management of the discussion but prefer the presence of a neutral third party. The process typically begins with a brief conversation between the facilitator and each party to allow for an assessment of the situation. Once these conversations have occurred, the facilitator then schedules a meeting with the parties together.

During this meeting, the parties participate in a facilitated discussion with the intent to develop a shared agreement regarding how to correct the harm perceived or realized by the complainant. The parties work together to develop an agreement that resolves the issue and repairs relationships that were damaged by the conduct. The neutral facilitator acts as a buffer between the parties and ensures that the dialogue remains focused on the primary issue(s). The facilitator may suggest breaks or interject comments/questions designed to redirect dialogue in a productive manner.

**Formal Mediation:** This form of AR is most appropriate when the parties are unlikely to reach a solution without support. Mediation involves a neutral mediator who seeks to improve the parties' relationship through assisting them in understanding one another, introducing possible solutions to the problem, and making suggestions for improved communication.

- Step 1: Mediator schedules private meetings with each party individually; guidelines for mediation will be presented to both parties.
- Step 2: Mediator assesses appropriateness of mediation as a conflict resolution technique, and if appropriate schedules a joint meeting with all parties. If the mediator deems that mediation is not appropriate, this process stops and will be referred to another process, which may be a formal or informal process.
- Step 3: Meeting is held to allow parties to share their views with one another without interruption, followed by an interactive mediator-guided discussion to determine a resolution, if possible.
- Step 4: If resolution is reached between the parties, each party will review and sign a binding resolution agreement, which will outline terms of the resolution and expectations of the parties moving forward.

**Shuttle Diplomacy:** The crafting of an agreement that does not require the complainant and respondent to participate in an in-person meeting with one another. The facilitator will work with the parties individually to create an agreement that satisfies both parties.

**Acceptance of Responsibility:** The Respondent can choose to take responsibility for the alleged policy violation(s). When this path is chosen, the Title IX Coordinator will assign a Deputy Civil Rights/Title IX Coordinator to work directly with the Respondent to determine corrective action(s) and/or sanctions. Both Complainant and Respondent must agree to this form of informal resolution, and the parties must also agree to the planned corrective action/sanctions prior to the conclusion of informal resolution.

**Restorative Justice:** An approach to justice that seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of a grievance. Restorative justice requires that the Respondent accept responsibility for their behavior prior to beginning the process and is centered in repairing the harm caused to the Complainant. Restorative justice requires a specifically trained facilitator and may not be available or appropriate in all cases.

**Other:** Other forms of alternative resolution are welcome to be presented as options by the parties. These types of alternative resolution must be agreed upon by the Title IX Coordinator and both parties. They must fall within the guidelines from the Department of Education and comply with all Civil Rights & Title IX policies.

Parties may attempt more than one form of AR. For example, if an attempt is made to participate in facilitated dialogue but the results are not satisfactory to both parties, the parties may request a transition to Formal Mediation. If both parties agree, an attempt at Formal Mediation will be made.

**b. Resolution Without a Hearing**

Resolution without a hearing can be pursued by the respondent for any behavior that falls within Title IX and Civil Rights policy, at any time during the process.

Once notified of the allegation, the respondent may choose to submit a written statement to the Civil Rights/Title IX Coordinator admitting responsibility for all or part of the alleged policy violations. If so, the Civil Rights/Title IX Coordinator will notify both parties that Alma College has received the statement of admission, and that those policy violations will be referred to a Hearing Authority to determine appropriate sanctions. In the event there are remaining allegations that are still contested, those allegations will move forward through the investigative process. Both parties retain their rights to file an appeal, as described below.

**c. Formal Hearing**

For any allegations that are not appropriate for alternative resolution, and which are not resolved without a hearing, the Civil Rights/Title IX Coordinator will initiate a formal hearing, or for employees for whom no hearing process is available, will refer his/her findings to the Vice President for Human Resources for implementation. The Civil Rights/Title IX Coordinator will then determine which hearing procedure will be used: either the Formal Title IX Hearing Procedure or the Civil Rights Hearing Procedure defined below.

**8. Formal Hearing Procedures**

There are two types of formal hearing procedures. The Title IX procedures require cross examination based on federal regulations, all others do not. The Civil Rights/Title IX Coordinator will appoint either single Administrative Hearing Officer, or a three-person hearing panel selected from the Case Management Team to make a determination on responsibility and appropriate sanctions, if any. In the case of a hearing panel, the Civil Rights/Title IX Coordinator will appoint a panel chair to convene the hearing. Case Management Team members who have served as investigators will be witnesses in the hearing of the allegation and, therefore, may not serve as hearing panel members on cases they have investigated. Hearing panels may include both faculty and non-faculty employees. The panel will meet at times determined by the panel chair.

**b. Notification of Charges**

At least ten days prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled, with the consent of the parties, the Hearing Authority will send a letter to the parties, and their advisors with the following information. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The letter will contain:



- A description of the alleged violation(s), where to find the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- A link to access the finalized investigation report and supportive documents electronically.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the Hearing Authority may reschedule the hearing.
- Advisors are not permitted to participate in this hearing without the presence of the party they are assisting.
- Hearings for possible violations that occur near or after the end of an academic term will be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by Alma College and remain within the goal for a timely resolution.

c. Title IX Hearing Procedures (uses cross-examination)

Hearings will be convened, usually within one to two weeks of the completion of the investigation, and will be conducted in private. The parties will have equal access to the information being considered, and equal opportunity to present information before the hearing authority. The Hearing Authority has jurisdiction to run the hearing in the manner they feel most appropriate to make a determination, and to protect the privacy and well-being of those involved. This may include meeting by telephone or video conferencing, or other methods to manage the hearing.

The following is a guide as to how the hearing is typically conducted. Changes to these guidelines can be made at the hearing authorities' discretion, as long as the rights of all participants are maintained.

- The hearing authority welcomes everyone and discusses the expectations for the hearing.
- The hearing authority gives a brief overview of the investigative report.
- The hearing authority may ask the investigative team clarifying questions regarding the investigation at any point during the hearing.
- The complainant(s) will be given an opportunity to respond to the investigative report.
- The hearing authority will have an opportunity to ask the complainant(s) questions.
- The respondent(s) party will be given an opportunity to respond to the investigative report.

- The hearing authority will have an opportunity to ask the respondent(s) questions.
- Advisors of both complainant(s) and respondent(s) will have the opportunity to cross-examine the other party involved. Cross-examination refers to relevant, case-specific questions as approved by the hearing authority.
- The hearing authority will then call witnesses (if any), one by one, and ask them questions.
- Advisors for both complainant(s) and respondent(s) will have the opportunity to cross-examine witnesses as noted above.
- Both complainant(s) and respondent(s) will be given the opportunity to make a summary statement, including an impact statement, if any, and any requested sanctioning considerations.

Hearings will be recorded for purposes of review in the event of an appeal. Case Management Team members, the parties and/or the persons who initiated the action, and appropriate administrative officers of Alma College will be allowed to listen to the recording in a location determined by the Civil Rights/Title IX Coordinator or designee. No person will be given or be allowed to make a copy of the recording without permission of the Civil Rights/Title IX Coordinator. Persons given access to the recording will be required to sign an agreement confirming that they will protect the privacy of the information contained in the recording.

- d. Civil Rights and other Related Hearing Procedures (no cross examination)
- Hearings will be convened, usually within one to two weeks of the completion of the investigation and will be conducted in private. The parties will have equal access to the information being considered, and equal opportunity to present information before the hearing authority. The hearing authority has jurisdiction to run the hearing in the manner they feel most appropriate to make a determination, and to protect the privacy and well-being of those involved. This may include meeting with parties separately, utilizing telephone or video conferencing, or other methods to manage the hearing.

The following is a guide as to how the hearing will typically be conducted:

- The hearing authority welcomes everyone and discusses expectations for the hearing.
- The hearing authority gives a brief overview of the investigative report.
- The hearing authority may ask the investigative team clarifying questions regarding the investigation at any point during the hearing.

- The complainant(s) will be given an opportunity to respond to the investigative report.
- The hearing authority will have an opportunity to ask the complainant(s) questions.
- The respondent(s) will be given an opportunity to respond to the investigative report.
- The hearing authority will have an opportunity to ask the respondent(s) questions.
- Both complainant(s) and respondent(s) will have the opportunity to provide a list of questions that they would like the hearing authority to ask. The hearing authority will determine which questions are appropriate and relevant and ask those questions.
- The hearing will call witnesses (if any), one by one, and ask them questions.

Both complainant(s) and respondent(s) will have the opportunity to ask questions of witnesses through the hearing authority.

- Both complainant(s) and respondent(s) will be given the opportunity to make a summary statement, including an impact statement, if any, and any requested sanctioning considerations.

Hearings may be recorded for purposes of review in the event of an appeal. Case Management Team members, the parties and/or the persons who initiated the action, and appropriate administrative officers of Alma College will be allowed to listen to the recording in a location determined by the Civil Rights/Title IX Coordinator or designee. No person will be given or be allowed to make a copy of the recording without permission of the Civil Rights/Title IX Coordinator. Persons given access to the recording will be required to sign an agreement confirming that they will protect the privacy of the information contained in the recording.

e. Decisions

The hearing authority will deliberate in closed session, to determine whether the respondent(s) is responsible or not responsible for the violation(s) in question, based on a preponderance of the evidence (i.e., whether it is more likely than not that the accused individual committed each alleged violation). If an individual responding party or organization is found responsible, the hearing authority will determine appropriate sanctions.

The Hearing Authority will prepare a written deliberation report and deliver it to the Civil Rights/Title IX Coordinator, detailing the finding, and rationale for that finding. The letter should conclude with any assigned sanctions.

The Civil Rights/Title IX Coordinator will simultaneously inform the respondent(s) and complainant(s) of the final determination simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties, as indicated in official Alma College records; or emailed to the parties' Alma College-issued email account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

f. Sanctions

Sanctions or responsive actions will be determined by the hearing body. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation.
- An individual's disciplinary history.
- Previous reports or allegations involving similar conduct.
- Any other information deemed relevant by the hearing body.
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation.
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation.
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the reporting party and the community.

1.) Student Sanctions

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

- *Warning*: A formal statement that the behavior was unacceptable and a warning that further infractions of any Alma College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Probation*: A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any Alma College policy, procedure, or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders, and/or other measures deemed appropriate.
- *Suspension*: Termination of student or organization status for a definite period of time not to exceed one year, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at Alma College.
- *Expulsion*: Permanent termination of student status, revocation of rights to be on campus for any reason or attend Alma College-sponsored events.

- *Organizational Sanctions.* Deactivation, de-recognition, loss of all privileges (including College registration), for a specified period of time.
- Educational Sanctions
- *Other Actions:* In addition to, or in place of the above sanctions, Alma College may assign any other sanctions, as deemed appropriate.

## 2.) Employee Sanctions

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

- *Warning:* A formal statement that the behavior was unacceptable and a warning that further infractions of any Alma College policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required counseling:* Requirement to attend a set number of sessions with a counselor of Alma College's choice.
- *Demotion:* An employee may be placed in a position with lesser responsibility; a decrease in pay will be associated with this.
- *Leave with pay:* An employee may be required not report to work for a specified number of days.
- *Leave without pay:* An employee may be required not report to work for a specified number of days and may not use sick or vacation time for days away from work.
- *Termination:* Permanent termination from employment responsibilities, revocation of rights to be on campus for any reason or attend Alma College-sponsored events.

## 3.) Educational Sanctions

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

### f. Withdrawal or Resignation While Charges Pending

Students: If a student withdraws or leaves Alma College while that student has a report of misconduct pending for violation of the policy on Civil Rights, Title IX, or for charges under the Code of Student Conduct the process will be put on hold pending return. Any student with pending conduct will not be allowed to return to campus until the process is complete. Complainant(s) can still access supportive measures.

Employees: Should an employee resign while charges are pending, the records of the Civil Rights/Title IX Coordinator will reflect that status, as will Alma College responses to any future inquiries regarding employment references for that individual. The Civil Rights/Title IX Coordinator will act to promptly and effectively remedy the effects of the conduct upon the reporting party and the community.

Faculty: Should a faculty member resign while charges are pending, the records of the Civil Rights/Title IX Coordinator will reflect that status, as will Alma College responses to any future inquiries regarding employment references for that individual. The Civil Rights/Title IX Coordinator will act to promptly and effectively remedy the effects of the conduct upon the reporting party and the community.

g. Appeals

All requests for appeal considerations must be submitted in writing to the Civil Rights/Title IX Coordinator within three business days of the delivery of the written finding of the hearing body. Appeals will rarely, if ever, require the parties to meet with the appeal authority.

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

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

Any appeal request that is not timely, and/or not pertaining to these grounds will not be considered. An appeal authority who was not involved in the resolution process previously, will consider all appeal requests. When any party requests an appeal, the other party or parties will be notified that an appeal has been submitted.

Where the Appeal Authority finds that at least one of the grounds is met, and proceeds, additional principles governing the hearing of appeals include the following:

- Appeals decisions are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal.
- Appeals granted based on new evidence should normally be remanded to the original hearing body for reconsideration. Other appeals may be

remanded at the discretion of the Civil Rights/Title IX Coordinator or heard by the appeal authority.

- Sanctions imposed are implemented immediately unless the Civil Rights/Title IX Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- The appeal authority will render a written decision on the appeal to all parties within 2-3 business days from hearing of the appeal.
- All parties will be informed of whether the grounds for an appeal are accepted and the results of the appeal decision.
- Once an appeal is decided, the outcome is final: further appeals are not permitted.

h. Failure to Complete Sanctions/Comply with Responsive Actions

All responding parties are expected to comply with sanctions/responsive actions/corrective actions within the time specified. Failure to follow through on conduct sanctions/responsive/corrective actions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from Alma College. A suspension, and/or temporary loss of privileges will only be lifted when compliance is achieved to the satisfaction of the Civil Rights/Title IX Coordinator.

## **9. Records**

In implementing this policy, summary records of all allegations, resolutions, and hearings will be kept by the Civil Rights/Title IX Coordinator for a period of seven years in the College Civil Rights/ Title IX database. Those allegations leading to expulsion or termination of employment will be kept in perpetuity.

## **10. Revision**

These policies and procedures will be reviewed and updated regularly, and/or as warranted by changes to federal guidance by the Campus Coordination and Response Team. These recommendations will be submitted to the President's Cabinet for approval. The Civil Rights/Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party without additional approval. Policy in effect at the time of the offense will apply even if the policy is changed subsequently.

**This policy was last revised 7/7/2023**