



Albion College

**Relationship Violence
and Sexual Assault Handbook
2019-20**

Relationship Violence and Sexual Assault Handbook

This handbook is intended to serve as a resource for survivors, their support network, and those involved in the College's Relationship Violence and Sexual Assault Hearing process. The Relationship Violence and Sexual Assault Policy and the Judicial Process sections included in this handbook are excerpts from the *2019-2020 Albion College Student Handbook* (www.albion.edu/handbook).

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Relationship Violence and Sexual Assault Policy

From Chapter VII, Appendix B. of the 2019-2020 *Albion College Student Handbook* (pp. 108-115)

Albion College is committed to providing an educational environment where we are all able to learn, teach, and work freely and where the dignity, safety, and self-respect of all members of our community are protected. Sexual assault, domestic violence, dating violence, and stalking are incompatible with this mission and will not be tolerated at Albion College.

The Albion College Relationship Violence and Sexual Assault Policy prohibits all incidents of criminal sexual conduct as defined by the laws of the State of Michigan. However, as an educational institution, we believe we have the responsibility to set an even higher standard of conduct for our community. The Albion College Relationship Violence and Sexual Assault Policy contains our standards and definitions of sexual assault, dating violence, domestic violence, and stalking. We will fairly but rigorously enforce these standards. Legal definitions vary by jurisdiction. Relevant Michigan laws are included at the end of this policy.

On campus, the College seeks to provide a prompt, fair, and impartial investigation and resolution through the Albion College Judicial Process (*Albion College Student Handbook*, Chapter VI, The Judicial Process) as well as stringent enforcement of sanctions following decisions for those cases where students are found responsible for violating this policy. Relationship Violence and Sexual Assault Hearing Officers who hear these cases are trained annually on issues related to these offenses and how to conduct a hearing process that protects the safety of survivors and promotes accountability. A student who violates the College standards for sexual conduct could be subjected to sanctions under the College judicial process even if they are not prosecuted in the criminal justice system for that conduct.

Education and awareness are essential to our efforts against sexual misconduct, and the College provides educational materials and programs throughout the academic year. Most importantly,

our procedures and referrals to services recognize the trauma of sexual assault, domestic violence, dating violence, and stalking and the need to empower the survivor. General information and educational material concerning this behavior is available in the Anna Howard Shaw Women's Center, the Office of Human Resources, the Office of the Provost, and the Student Development Office. Individuals seeking confidential consultation on campus should contact, Counseling Services, or a Local Sexual Assault Advocate. Students seeking confidential consultation off campus should contact Sexual Assault Services of Calhoun County (see Resources below).

Policies

Sexual Assault

Sexual assault is any sexual activity initiated by an individual that occurs without consent of the individual to whom the sexual activity is directed and/or by force or coercion, including non-consensual sexual contact and non-consensual sexual intercourse.

Non-consensual sexual contact is any intentional sexual touching, however slight, with any object or body part, by a person upon another person that is without consent and/or by force or coercion. Non-consensual sexual contact includes intentional contact with the breasts, buttocks, groin, or genitals, or the clothing covering those parts; or touching others with any of these body parts, clothed or unclothed; or any other intentional bodily contact in a sexual manner.

Non-consensual sexual intercourse is penetration, however slight, with any object or body part, of the vagina or anus, or fellatio or cunnilingus that is without consent and/or by force or coercion.

Consent – Consent is willingly and verbally agreeing to specific sexual contact or conduct. No one who has been forced or coerced into sexual activity can consent. No one who is impaired by alcohol, other drugs, or prescribed medication can consent. Engaging in sexual activity with an individual who one knows or reasonably should know to be impaired is a violation of this policy.

Force is the use or threatened use of physical violence or imposing on someone physically to gain sexual access.

Coercion is unreasonable pressure for sexual activity, including continued pressure for sexual activity once an individual communicates disapproval for that activity, non-physical threats, or implied threats.

Dating Violence

Dating violence occurs in a relationship of a romantic and intimate nature. Dating violence may occur in either of the following two ways:

- An intentional pattern of assaultive and controlling behaviors that cause fear, degradation, or humiliation. These behaviors may include, but are not limited to, threats, including threats to leave the individual or threats of self-harm, destruction of property, or orally abusive behavior.
- Any use or threatened use of physical force or violence, including sexual assault or other nonconsensual sexual activity.

Domestic Violence

Domestic violence occurs in the following relationships: spouses or former spouses, individuals who are or were in a dating relationship, or individuals who have a child in common. Domestic violence may occur in either of the following two ways:

- An intentional pattern of assaultive and controlling behaviors that cause fear, degradation, or humiliation. These behaviors may include, but are not limited to, threats, including threats to leave the individual or threats of self-harm, destruction of property, or orally abusive behavior.
- Any use or threatened use of physical force or violence, including sexual assault or other nonconsensual sexual activity.

Stalking

Stalking is defined as repeated and intentional conduct directed at an individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the individual to whom the

conduct is directed to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

Retaliation

Retaliation against a person who reports, files a complaint, or participates in an investigation or other procedures for addressing complaints of sexual assault, dating violence, domestic violence, and stalking will not be tolerated. Retaliation is defined as any adverse action taken against a person participating in a protected activity because of that person's participation in that protected activity. Individuals should notify Campus Safety in a prompt manner if they believe they have been retaliated against so that the behavior can be investigated and appropriate action taken.

Amnesty for Survivors and Witnesses

Survivors and witnesses under the influence of alcohol and/or other drugs during the time of the incident will not normally be referred to the College judicial process for alcohol and/or other drug violations.

Confidentiality

Most College employees are considered responsible employees by the federal government, and are therefore required to immediately report actual or suspected instances of sexual assault, dating violence, domestic violence, and stalking to Campus Safety or to the College's Title IX Coordinator. Certain employees, due to the nature of their roles, are exempt from mandatory reporting, and are considered confidential resources, including staff members in Counseling Services as well as staff and students who are trained as Local Sexual Assault Advocates.

Confidential resources will maintain confidentiality except in extreme cases of immediate threat or danger, or the abuse of a minor. Confidential resources do report anonymous, aggregate information for federal compliance purposes except when they believe that doing so would harm a specific client or patient. Generally, information shared in climate surveys, classroom writing assignments, human subjects research, and events like Take Back the Night marches or advocacy events do not constitute official notice of

misconduct, and do not need to be reported to Campus Safety or the Title IX Coordinator.

If a survivor does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, they may make such a request to the Title IX Coordinator or to the Campus Safety staff member investigating the incident, who will evaluate that request on a case-by-case basis. In cases where that request can be honored, survivors are still entitled to interim support and remedies.

Formal reporting still affords privacy to the survivor, as only individuals who need to know about the incident will be informed.

Reporting

Survivors of relationship violence and sexual assault have the right and are encouraged to pursue a complaint against the accused in the legal system and if the alleged offender is an Albion student, within the College Judicial Process. One or both of these options may be pursued, and the College will assist survivors in filing a criminal complaint as requested. A written explanation of a survivor's rights, options for reporting, and an explanation of the process is given to anyone who reports relationship violence or sexual assault on campus.

Options to file a complaint both on and off campus are listed below. Complaints filed off-campus will be processed based on the laws in the jurisdiction in which the conduct occurred. Cases involving alleged violations of this policy by a student are processed in accordance with the Albion College judicial process (*Albion College Student Handbook*, Chapter VI, The Judicial Process).

Survivors may also request changes in academic, living, transportation, and working situations whether or not they choose to submit a formal complaint about the incident to the College or to civil authorities. Requests should be made to the Vice President for Student Development and Dean of Students or the College's Title IX coordinator. The College will provide such accommodations if they are reasonably available.

The College has no legal authority to enforce orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by courts. However, the Vice President for Student Development and Dean of Students or their designee

may require an individual or group to curtail or modify behavior and activities, including prohibiting contact with specified individuals such as physical contact or oral, written, electronic, third-party, or other communication, whenever these behaviors or activities are viewed as threatening or injurious to the well-being, safety, or property of any person, or orderly functioning of the College (e.g., living, learning, or working environment). Violations of such restrictions are considered violations of College policy and may result in a student being required to immediately leave campus.

On-Campus Reporting

Campus Safety – Campus Safety is responsible for investigating complaints filed on campus and has staff with specialized training in this area. Campus Safety can be reached at 517-629-1234 or csafety@albion.edu. The Campus Safety Office is located at 1003 E. Cass Street

Title IX Coordinator - Complaints alleging a violation of Title IX, pertaining to sex discrimination, including harassment based upon sex, can be made to the College's Director for Human Resources and Title IX Coordinator, Lisa Locke, at 517-629-0206. The Human Resources Office is located at 1003 E. Cass Street (enter through the Campus Safety entrance).

Off-Campus Reporting

Albion Department of Public Safety – The Albion Department of Public Safety (ADPS) is the law enforcement agency having jurisdiction in the City of Albion. ADPS will assist survivors to file criminal complaints with other agencies if the incident occurred outside of the City of Albion. ADPS can be reached at 911 or the non-emergency line at 517-629-3933.

Resources

On-Campus Resources

Counseling Services — 517/629-0236

The Counseling Services Office offers free, **confidential** counseling and support to survivors of relationship violence and sexual assault. The counseling staff are dedicated and experienced in providing personal assistance to survivors and others

affected by this type of trauma. Counseling Services can be reached after hours by calling Campus Safety at 517/629-1234.

Local Sexual Assault Advocates (LSAA)

LSAA volunteers are members of the College community who have been trained to offer support, advocacy, information, and referrals exclusively to current Albion College faculty, staff, and students who are (a) survivors of sexual assault, or (b) attending to another community member who is a survivor. LSAA volunteers are trained to maintain confidentiality while they are acting in that capacity, except in instances that involve a threat of harm to any person. LSAA volunteers have access to spaces on campus that allow them to meet with survivors and others in a confidential setting. A list of current LSAs and their contact information can be found online at albion.edu/lsaa.

The Anna Howard Shaw Women's Center (AHSWC) — 517/629-0226

The AHSWC offers information and educational material, advocacy, support, and consultation regarding sexual assault, dating violence, domestic violence, and stalking.

Off-Campus Resources

S.A.F.E. Place Shelter, Battle Creek — 269/965-SAFE (7233) or 888/664-9832 (24/7)

S.A.F.E. Place can assist with shelter, court advocacy, referrals, and comprehensive counseling programs for victims of stalking, dating violence, and domestic violence.

Sexual Assault Services of Calhoun County — 888/383-2192 (24/7)

Sexual Assault Services of Calhoun County trains volunteer Sexual Assault Advocates (SAA) who can advise survivors on their options for medical and emotional care, as well as legal remedies. At the request of the survivor, the SAA can remain with the survivor throughout the immediate post-assault or reporting process as well as offering long-term support.

Sexual Assault Services of Calhoun County provides free medical-forensic examinations for survivors of sexual assault. Exams are conducted by Sexual Assault Nurse Examiners (SANE), registered nurses with advanced training in caring for survivors of

sexual assault. SANE nurses provide compassionate care ensuring that survivors are not re-traumatized while seeking medical attention.

AWARE – Jackson — 517/783-2861 (24/7)

AWARE staff can accompany a sexual assault survivor to Henry Ford Allegiance Health (regional hospital) and City Police or Sheriff Department. Counseling and support group are also available.

Legal Services of South Central Michigan — 269/965-3951, 800/688-3951

Legal Services of South Central Michigan (LSSCM) provides free civil legal assistance to low income persons with emphasis on homelessness prevention, domestic violence prevention, assisting in accessing health care, food, and needs-based income programs. LSSCM offers assistance with custody cases and in securing Personal Protective Orders.

National Domestic Violence Hotline — 800/799-SAFE (24/7)

The National Domestic Violence Hotline provides free 24/7 telephone and online support to victims of domestic violence, including immediate support to find safety. www.thehotline.org

Lesbian, Gay, Bisexual, and Transgender National Help Center — 888/843-4564

The LGBT National Help Center provides telephone and online support for LGBTQ individuals. www.glbthotline.org

Equality MI (Detroit)—866/926-1147

Equality MI offers victim assistance, counseling, and referral for LGBTQ and HIV-affected individuals who have experienced domestic violence, sexual assault, hate violence, harassment, and discrimination. Monday through Friday, 9:00 a.m.-5:00 p.m.

Ozone House (Ann Arbor) — 734/662-2222

Ozone House includes a safe house and shelter, offering housing, food, and counseling services for LGBTQ individuals.

General Information About Sexual Assault

Sexual assault ranges from pinching someone's buttocks in public through unwanted violent sexual intercourse. While in most sexual assaults, men are the perpetrators and women the victims, men can and do victimize men, women can and do victimize women, and women can and do victimize men.

Most sexual assaults occur between people who know each other. These instances of sexual assault are called acquaintance rape. Most campus sexual assaults are acquaintance rapes. Because acquaintance rapes do not fit our culture's stereotype, where a sleazy stranger jumps out of a dark alley and rapes a woman at knifepoint, many of us have a hard time naming acquaintance rape as sexual assault. To the perpetrators, the survivor meant yes, even if they said no. The survivors blame themselves, unable to believe that a friend or someone they knew violated their trust as well as their bodies.

Most acquaintance rapes involve alcohol or other drug use. Alcohol and other drugs impair judgment as well as one's physical and mental abilities.

Risk reduction tips can often take a victim-blaming tone, even unintentionally. Only those who commit sexual violence are responsible for those actions. We offer the tips below with no intention to victim-blame, but with recognition that these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act:

- If you have limits or boundaries for sexual activity, make them known as early as possible.
- When possible, tell a sexual aggressor "NO" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- It is okay to ask for help.
- Know your limits in regard to your use of alcohol and other drugs. Alcohol and other drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.

- Take care of your friends and ask that they take care of you.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- When engaging in sexual activity, only "yes" means yes.
- Remember, the College's definition of consent requires willing and verbal consent for specific sexual contact or conduct.
- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- **DON'T MAKE ASSUMPTIONS** about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. Your partner's consent should be affirmative and continuous. If there are any questions or ambiguity then you should proceed as if you **DO NOT** have consent.
- Mixed messages from your partner are a clear indication that you should stop, resolve any ambiguity and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual activity with which they are comfortable.
- Don't take advantage of someone's drunkenness or altered state, even if they willingly consumed alcohol or other substances. Remember that no one who is impaired by alcohol, drugs, or prescribed medication can consent.
- Realize that your potential partner could feel intimidated or coerced by you. You may have a power advantage simply because of your gender or physical presence. Don't abuse that power.
- Do not share intimate content, pictures, images, or videos that are shared with you.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.

- Remember, only “yes” means yes. Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

What to Do in Case of Sexual Assault

If you are sexually assaulted:

- **Get to a safe place.** Put your safety first. If you can’t get to a phone yourself, do whatever you can to attract someone’s attention and get to a safe place.
- **Call a Sexual Assault Advocate (SAA).** As soon as you can get to a phone, call the sexual assault advocate (SAA). These individuals are trained to respond to sexual assaults. All communication with the SAA is confidential. In an emergency, you may also contact the SAA by dialing #9876 from a campus phone, or by calling 888/383-2192. Albion College Campus Safety can also contact an SAA for you (ext. 0911 or 517/629-0911).
- **Preserve all evidence. Do not shower, bathe, or change clothes.** Do not shower, bathe, douche, wash hands, brush teeth, go to the bathroom, or change clothes if you have any thought of reporting the assault. If you have not preserved all evidence, you may still report the assault. Some evidence can still be collected during a medical examination at least 5 days after the assault.

If a friend or someone you know is sexually assaulted:

- **Listen.** Believe them. Be gentle, patient, and sensitive.
- **Get the survivor to a safe place.**
- **Assess physical injuries.** Determine if the survivor needs emergency medical care and if they are coherent enough to make decisions regarding treatment. If they are not, get the survivor to the closest medical facility. If they are, support the survivor in their decision regarding treatment. Survivors may be at risk for sexually transmitted infections, and female survivors may be at risk for pregnancy. Survivors should consider seeking medical care after

an assault even if they decide not to seek emergency medical care.

- **Contact a Sexual Assault Advocate (SAA).** Give the survivor information about the sexual assault advocates including that all communication with the SAA is confidential. The survivor does not have to give their name. If the survivor does not want to talk to the SAA, you may call the SAA and anonymously get an informational brochure for them.
- **Remind the survivor not to shower, bathe, or change clothes.** Remind the survivor not to shower, bathe, douche, wash their hands, brush their teeth, go to the bathroom, or change clothes if they have any thought of reporting this crime. Any of these actions would destroy evidence which might be important to the case. If all evidence is not preserved, they may still report the assault. Some evidence can still be collected during a medical examination at least 5 days after the assault.
- **Know your limits.** Recognize what you can and cannot handle. Get help if you feel you are in over your head.
- **Don’t judge.** Don’t question or judge the survivor’s actions or reactions. Don’t tell the survivor what they should or shouldn’t do, or what they should or shouldn’t be feeling. Don’t pry for details if the survivor is unwilling to give them.

General Information About Stalking

You may or may not know the person who is stalking you; however, most stalkers have dated or been involved with the person they are stalking. While this can make recognizing stalking behavior difficult, it is important to remember that all behavior related to stalking is unwanted. Examples of stalking behavior include, but are not limited to:

- Repeated phone calls, including hang ups;
- Repeated electronic messages, letters, or gifts;
- Damage to your vehicle or other personal property;

- Monitoring and/or following your movements, activities, telephone, or other communications and in some cases this includes use of hidden cameras or GPS devices;
- Repeatedly driving or walking by your residence, class, or place of employment;
- Threats of harm toward you or your family, friends, or pets;
- Attempts to learn more about you through public records, online search services, hiring investigators, going through trash, or contacting your friends, family members, or co-workers; or
- Other actions that control, track, or frighten you.

What to Do About Stalking

Stalking is unpredictable and dangerous, and no two situations are alike. However, there are some things you can do to increase your safety such as the examples listed below.

- If you are in immediate danger, call Campus Safety (ext. 0911 or 517/629-0911) or the Albion Department of Public Safety (911).
- Trust your instincts. If you feel that something is not right, or that you are in danger, do not ignore those feelings.
- Do not communicate with the stalker or respond to attempts to contact you.
- Take threats seriously, especially if the stalker mentions suicide or physical violence. Immediately report this type of behavior to Campus Safety or Albion Public Safety.
- Develop a safety plan including actions like changing your routine, staying somewhere else, and having a friend or relative go places with you.
- Think about and decide in advance what you will do if the stalker shows up at your residence, classroom, or workplace.
- Make your friends, family, classmates, and co-workers aware of the situation, and tell them how they can help you.
- Keep and document all evidence of the stalking, including keeping a list of dates and times the stalker contacts you, and saving e-mails, texts, phone messages, letters, or notes.

- Photograph any injuries caused by the stalker and any property the stalker damages.
- Utilize available resources on and off campus to assist and advise you in how to handle situations.

General Information About Dating and Domestic Violence

Dating and domestic violence can be verbal, emotional, physical, or sexual. Violence and abuse have no place in a relationship, and when it is present are not about love or caring, but about one person trying to control another. Dating and domestic violence include, but are not limited to, the examples listed below:

- Your partner repeatedly insults and mocks your appearance, beliefs, religion, race, heritage, or class.
- Your partner manipulates you with lies and contradictions.
- Your partner denies you access to bank accounts, credit cards, or a vehicle.
- Your partner denies you access to health, prescription, or dental insurance.
- Your partner discourages you from spending time with friends or family members.
- Your partner tells you that you deserve to be mistreated and abused.
- Your partner threatens to harm themselves or others, including your friends, family, or pets.
- Your partner physically abuses you, which may include pushing, kicking, slapping, biting, punching, and throwing objects at you.
- Your partner sexually abuses you, which may include your being forced to watch or participate in sexual acts.
- Your partner does other things that frighten or humiliate you, or that harm or could harm you physically, emotionally, or psychologically.

What to Do About Dating and Domestic Violence

If you think you are involved in an abusive relationship, seek help. There are a number of actions that you can take, but you will need support. Examples of steps that you should consider are listed below.

- If you are in immediate danger, call Campus Safety (ext. 0911 or 517/629- 0911) or the Albion Department of Public Safety (911).
- Talk to someone you trust about the abuse. It is important to break the silence.
- If you decide to end the relationship, develop a safety plan, which might include asking a friend, family member, or College staff member for help; finding a safe place to stay; and collecting money, emergency phone numbers, a bag of clothes, and personal items so you can leave quickly.
- Seek help from one of the resources listed above.

Remember, you do not deserve to be mistreated or abused. Examples of rights that you have in any personal relationship are listed below.

- The right to express your opinions and have them respected by your partner.
- The right to spend time with friends and family and pursue your own interests.
- The right to have your needs be as important as the needs of your partner.
- The right to have your feelings taken seriously.
- The right to have control over your body.
- The right to equally share expenses and financial benefits.
- The right to break up with your partner without being threatened.
- The right not to be physically, emotionally, or sexually abused by your partner.
- The right to say no to anything.

The Albion College Sexual Misconduct Policy is adapted in part from The Association of Title IX Administrators' (ATIXA) Sexual Misconduct Model Policy and is used here with permission.

VI. The Judicial Process

Overview of the Judicial Process

Introduction

Albion College strives to be more than a reflection of the society of which it is a part. Through its programs and its example, the College seeks to challenge the society to adopt ever higher standards and expectations for its members. The College is not, however, a sanctuary from the larger society, nor from the laws and expectations of that society. Institutional expectations, regulations, and practices are established to provide an environment conducive to human growth, to reflect the values to which the College subscribes, to recognize the proximity in which students live with one another, and to recognize the developing capabilities of students as they encounter and progress through the college experience.

As members of the Albion College community, students have the right to address grievances arising from the actions of any student or student group that violate College policies and expectations. The College judicial process has been designed as a means by which all members of the College community, including faculty members, administrators, and students, or the College itself, can seek a remedy in incidents that involve students.

College Jurisdiction

Albion College's jurisdiction of community standards and student discipline includes conduct on College premises, but also extends to conduct at College-sponsored or College-related activities wherever they take place; to conduct off College premises when the behavior could adversely affect Albion College and its interests as an academic community; and to conduct that involves any aspect of the relationship between the College and its students.

Actions involving a student or group in a legal proceeding in criminal or civil court do *not* free the student or group of responsibility through the College judicial process for the conduct in question. The College will proceed with its internal review and process according to a timetable to be determined by the College.

In an extraordinary case involving serious misconduct by a student or group that poses a threat to the well-being, safety, or property of any person, or the property or orderly functioning of the College (e.g., living, learning, or working environment), or when a serious crime has been committed, the president of the College or the president's designee may summarily suspend or temporarily suspend the offender.

The Vice President for Student Development and Dean of Students or their designee may

require an individual or group to curtail or modify behavior and activities, including prohibiting contact with specified individuals such as physical contact or oral, written, electronic, third-party, or other communication, whenever these behaviors or activities are viewed as threatening or injurious to the well-being, safety, or property of any person, or to the property or orderly functioning of the College (e.g., living, learning, or working environment). Violations of such restrictions are considered violations of College policy and may result in students being required to immediately leave campus.

The College reserves the prerogative to require students to leave the campus prior to the formal consideration of alleged violation of policies whenever their behaviors and/or activities are viewed as threatening or injurious to the well-being, safety, or property of any person, or to the property or orderly functioning of the College (e.g., living, learning, or working environment).

Guide to the Judicial Process

The purpose of the Albion College judicial process is to review alleged violations of College policies, procedures, and regulations by students or student groups. The various components of the College judicial system are designed to respond to such violations, to determine the facts, to ascertain responsibility, and to recommend or determine sanctions. Through due process procedures that have been established by the College, the judicial process seeks to ensure the protection of student rights in questions of alleged violations of College policies, procedures, and regulations.

The Vice President for Student Development and Dean of Students has the authority and responsibility for administering the judicial process, including the interpretation and application of College policies and procedures. The Vice President for Student Development and Dean of Students, the College judicial coordinators, the College Judicial Board, and the College hearing officers seek to provide a judicial process and disciplinary function that educates students as to their rights and responsibilities as members of the Albion College community, holds students accountable, and encourages students to recognize their obligations to themselves, their peers, and to society as a whole. The Vice President for Student Development and Dean of Students or their designee reviews the written record to determine whether a student will be charged with violating College policy, which charge(s) will be heard, which contents of the written record are relevant to the charge(s), and which hearing process will be utilized to hear the charge(s). In addition, the Vice President for Student Development and Dean of Students or

their designee will determine how a case will proceed when the College is not in session.

There are three distinct hearing processes in the College judicial system, including the Administrative Hearing, the Relationship Violence and Sexual Assault Hearing, and the College Judicial Board Hearing. Most cases are heard through the Administrative Hearing process. All cases involving sexual assault, domestic violence, dating violence, and stalking are heard through the Relationship Violence and Sexual Assault Hearing process. Academic Honesty and other serious cases may be heard through the College Judicial Board Hearing process. The information above and the definitions and sanctions below are relevant to all three hearing processes. Information specific to each individual hearing process is outlined in separate sections later in this chapter.

Initiating the Judicial Process

Any member of the College community, including faculty, staff, student, or the College itself, may file a complaint. Complaints may also be filed by individuals who are not members of the College community. The complainants may include, but are not limited to, the reporting person, accuser, victim, and the College. Specific policies and procedures for addressing cases of academic dishonesty can be found in the Academic Information section of the *Student Handbook*.

Once a complaint is filed, Student Development staff may conduct a preliminary investigation of the alleged violation. The Vice President for Student Development and Dean of Students or their designee will make an initial determination that a formal judicial hearing is or is not warranted. Examples of instances in which there may be a determination that a hearing is not warranted are insufficient evidence of a violation, a previous adjudication arising from the same incident, or an improper motivation on the part of the complainant, such as retaliation.

In deciding whether a complaint should be carried forward against a group, the following considerations, although not exclusive, should be weighed singly or in combination:

- Use of a group's funds for the questioned activity or act;
- Approval, planning, or support of the questioned act or activity by the group;
- Participation in the questioned act or activity by a group officer, whether or not acting in their official capacity;
- Involvement in the questioned act or activity by 10 percent or more of the group's membership;
- Actions by the group to cover up the questioned activity or act or actions to protect those group members involved;
- Failure of the group or its officers to fulfill its responsibilities to enforce College or group policies, procedures, or regulations;
- Fraternity housing in privileged housing

and, consequently, the College holds fraternities to a high standard of conduct and expects fraternities to self-govern their environments. Fraternity chapters may be held responsible, as a group, if it is deemed that one or more individual members or guests violated College policy on the premises of the chapter house.

- Participation in the questioned act by the members of a group or the residents of a living unit. The definition of living unit includes, but is not limited to, a corridor in Seaton Hall, Wesley Hall, Whitehouse Hall, or Mitchell Towers; a fraternity residence; an apartment; Dean Hall; Fiske House; or Ingham Hall.

A complaint may be simultaneously carried forward against a group and individual members of a group. If a determination is made that a formal hearing is warranted, the form of the hearing will be determined by the Vice President for Student Development and Dean of Students.

Definitions

Adviser — An adviser is a person who assists a complainant or respondent in the College judicial process. The role of the adviser and the guidelines on who can serve as an adviser in each of the three hearing types are outlined in the sections about those hearing types later in this chapter.

Appeal Administrator — An appeal administrator is an individual appointed to hear requests for appeal review after a decision has been rendered in a case. One or more hearing officers may be appointed to hear a single appeal, and the use of the term appeal administrator in this policy applies equally to cases in which multiple appeal administrators are assigned. The process for appealing a decision in each of the three hearing types is outlined in the sections about those hearing types later in this chapter.

Complainant — A complainant is the source of a complaint in the judicial system. The complainant may include, but is not limited to, the reporting person, accuser, victim, and the College. The burden of proof rests on the complainant, which typically includes the College.

Complaint — A complaint is a formal allegation of wrongdoing against individuals or a group.

Hearing Officer — A hearing officer is an individual appointed to determine whether a student is responsible for violating College policy. One or more hearing officers may be appointed to hear a single case, and the use of the term hearing officer in this policy applies equally to cases in which multiple hearing officers are assigned.

Judicial Coordinator — A judicial coordinator is an individual appointed to assist a hearing officer or the judicial board in an administrative role.

Respondent — A respondent is the individual or group that is charged in the judicial system with violating College policy.

Victim — A victim is a person affected by another's person's behavior or actions. The victim is not always the person who makes a complaint, and may or may not be a complainant in a case.

Witness — A witness is a person who can testify on the basis of knowledge of facts relevant to an alleged violation.

Standard of Evidence

Determinations of responsibility or non-responsibility in the College judicial system are based on a preponderance of the evidence standard (i.e., that which the hearing officer or judicial board believes is more likely than not to have occurred based on the information presented). Formal rules of evidence, such as those employed in criminal or civil court proceedings, do not apply to the College judicial system.

Determination of Responsibility/ Non-Responsibility

Not Responsible — A Not Responsible decision means that the evidence and arguments presented were not convincing enough to find the student or group responsible for violating the rule or policy cited in the complaint, based upon a preponderance of the evidence standard.

Responsible — A Responsible decision means that evidence and arguments presented were convincing enough to find the student or group responsible for violating the rule or policy cited in the complaint, based upon a preponderance of the evidence standard.

Sanctions

A sanction is a follow-up determined by the Vice President for Student Development and Dean of Students or hearing body which is meant to recognize a violation of College policy, hold the respondent accountable, and educate the respondent toward more responsible behavior in the College community. Sanctions may or may not affect a student's status at the College, depending on the severity of the violation and the necessary follow-up. Sanctions, which may be imposed singly or in combination for individuals and/or groups, include:

No Further Action — This sanction acknowledges that the respondent did violate the College policy cited, but the nature of the violation and/or the attitude of the respondent allow the hearing body to be confident that the respondent learned from the experience and will attempt to avoid future violations.

Warning or Censure — A Warning (Censure applies to student groups) is a written reprimand that expresses disapproval of the student's or group's actions and warns against future violations.

Status of Warning — This sanction provides

the respondent with a specific period of time during which the student or group should pay special attention to avoiding future violations.

Status of Probation — This sanction acknowledges a serious violation of a College policy and sets a specific length of time during which further violations of College policies, procedures, and/or regulations would likely lead to more serious consequences.

Withheld Suspension — This sanction means that immediate separation from the College is not required. However, any future violation of College policies, procedures, and/or regulations during the stated period of time would likely result in immediate suspension from the College.

Suspension of an Individual — Suspension is separation from the College for a specified period of time, ordinarily at least one semester in length. During this separation, the respondent is prohibited from enrolling in any academic work offered by the College, is not permitted to visit the College without prior permission from the Vice President for Student Development and Dean of Students, and may not participate in any College-sponsored or College-related activity. The intent is for the student to have time away from the College environment to consider the situation at hand and, after the specified period of time, apply to return to the College with a better understanding of their responsibilities within the community.

Suspension of a Group — The group will not be recognized for a set amount of time, or until specified conditions set by the College are met. During this time, the group ceases to be recognized by the College and may not function. If the group is residential in nature, housing for individual members of the group or the group as a whole may be reassigned during the period of the suspension which may take effect immediately.

Expulsion of an Individual — Expulsion involves dismissal and permanent removal from the College without possibility of readmission.

Removal of Recognition of a Group — The group will no longer be permitted to function or exist at Albion College. If the group is residential in nature, housing for individual members of the group or the group as a whole may be reassigned which may take effect immediately.

Other — There are other actions that may be used in concert with or in place of the sanctions mentioned above including fines, random alcohol and/or other drug testing at a student's own expense, restitution, educational projects, housing reassignment (which may take effect immediately), forfeiture of privileges such as prohibition of contact with another person, or not being allowed to participate in Commencement exercises and related activities.

Administrative Hearing

In an Administrative Hearing, Administrative Hearing Officers appointed by the Vice President for Student Development and Dean of Students, hear complaints filed against students or groups. One or more hearing officers may be appointed to hear a single case, and the use of the term hearing officer in this policy applies equally to cases in which multiple hearing officers are assigned. A judicial coordinator may be appointed to assist the hearing officer in an administrative role.

Adviser for Administrative Hearing Process

In the Administrative Hearing process, respondents have the right to have an adviser of their choice present during the pre-hearing meeting and the hearing. However, only one person designated as an adviser for the respondent is allowed access to the evidence. The adviser must be a full-time student, faculty member, or staff member at Albion College who is not a party to the case, not related to any party of the case, not an attorney, and does not have a law degree or other extensive formal legal training.

The extent to which the adviser may participate is limited to providing the respondent private support, guidance, or advice. During the hearing, the adviser may assist their advisee in formulating statements for the hearing officer. Such assistance, however, may not obstruct the orderly process of the hearing. The adviser may not directly interact with persons other than their advisee during the hearing. The adviser may not serve as a witness or represent the respondent in a manner similar to an attorney.

Administrative Hearing Process

The respondent will be provided with written notification of the charges as well as the date, time, and location of the hearing at least 48 hours before the hearing occurs. The hearing officer (or judicial coordinator, if applicable) will conduct a pre-hearing meeting with the respondent to review the Administrative Hearing process, the rights of the respondent, and the written documentation and all evidence for the case. In most cases, the pre-hearing meeting will be scheduled to occur immediately prior to the Administrative Hearing. After the pre-hearing meeting, the respondent may request that the hearing be re-scheduled for a later date or time. The hearing officer will determine reasonable parameters for rescheduling the hearing.

The only people attending an Administrative Hearing are the hearing officer, the respondent, and an adviser to the respondent as outlined above. Additional individuals may be present during the hearing in full or in part, only

at the request of the hearing officer for the purpose of providing additional relevant information or assisting the hearing officer to fulfill hearing officer functions. The character of the respondent and other parties to the case is not relevant in any hearing. Administrative Hearings are not recorded, and the recording of the hearing by the respondent, adviser, or any other individual present is prohibited. Hearings are not open to the public. The purpose of the hearing is to give the respondent the opportunity to present their side of the issue and for the hearing officer to determine whether the alleged violation(s) occurred.

At the Administrative Hearing, the respondent will have the opportunity to again review the written documentation and all evidence for the case. The respondent will be asked to indicate in writing whether they accept or deny responsibility for violating College policy. The respondent will have the opportunity to present evidence and oral testimony on their own behalf.

After the hearing, the hearing officer will determine if the respondent is responsible or not responsible (including in situations in which the respondent admits responsibility) for the alleged violations. The hearing officer's determinations of responsibility or non-responsibility are based on a preponderance of the evidence standard (i.e., that which the hearing officer believes is more likely than not to have occurred based on the information presented). If the respondent is found responsible, the hearing officer will make a recommendation for sanctions to the Vice President for Student Development and Dean of Students.

The Vice President for Student Development and Dean of Students or their designee will make pertinent information pertaining to past offenses available to the hearing officers at the time sanctions are considered. The outcome and sanctions (if applicable) will be communicated to the respondent in writing after approval or modification from the Vice President for Student Development and Dean of Students.

Rights of the Respondent in an Administrative Hearing

When a student participates in an Administrative Hearing as a respondent, they are afforded certain due process and procedural rights by the College:

- The right to have an adviser of their choice present during the pre-hearing meeting and the hearing subject to the following limitations and roles:
 - Only one person designated as an adviser for the respondent is allowed access to the evidence.
 - The adviser must be a full-time student, faculty member, or staff member at Albion College who is not a party to the case, not related to any party of the case, not an attorney, and does not have a law

- degree or other extensive formal legal training.
 - o The extent to which the adviser may participate is limited to providing the respondent private support, guidance, or advice.
 - o During the hearing, the adviser may assist their advisee in formulating statements for the hearing officer. Such assistance, however, may not obstruct the orderly process of the hearing. The adviser may not directly interact with persons other than their advisee during the hearing. The adviser may not serve as a witness or represent the respondent in a manner similar to an attorney.
- The right to examine in advance all written reports and evidence that will be presented at the hearing. The respondent does not have the right to examine or receive copies of documents in judicial process files or receive copies of documents in judicial files.
- The right to question all evidence allowed at the hearing.
- The right to present relevant evidence on their own behalf.
- The right to testify or not to testify on their own behalf. The respondent may testify orally and/or in writing. Exercising the right to remain silent will not be construed as an admission of responsibility.
- The right to attend or not attend the hearing. In choosing to not attend, the respondent forfeits their right to question evidence.
- The right to assurance that any hearing officer's determination of responsibility is based only on the evidence presented at the hearing.
- The right to a hearing conducted without unreasonable delay following the notification of charges.
- The right to written notification of a decision in their case in a timely manner.
- The right to request review for an appeal after a determination is reached.

Appealing the Decision in an Administrative Hearing

The respondent has the right to request review for an appeal of the decision and/or sanctions of the hearing officer. The Albion College judicial process provides that an appeal may be granted when the respondent demonstrates grounds sufficient to support a determination that at least one of four bases for appeal exists:

- There were judicial process procedural errors that substantially affected the rights of the respondent;
 - New evidence has been discovered that could not have been presented at the original hearing and that is of a character directly affecting the decision;
 - The decision is incompatible with the evidence;
 - The penalty is excessive.
- The request for appeal review must include

which bases the respondent is requesting an appeal review under, and a separate, written justification for each of the selected bases. Initial review of the sufficiency of a request for appeal is based on the content of the written request and the written documentation and evidence and may include consultations by the reviewing officer with College staff. **Initial review does not include a meeting.** Requests for appeal are reviewed by the Vice President for Student Development and Dean of Students or their designee. Such a request must be filed, in writing, by submitting a Request for Appeal Review form and a written statement supporting each of the relevant bases for appeal, with the Vice President for Student Development and Dean of Students or their designee by the date indicated in the written decision letter (normally five business days from the date of the letter). The reviewing administrator will deny the request if the request for appeal does not establish the existence of one of the grounds listed above, or will grant the appeal if the existence of one or more of the grounds is sufficiently demonstrated.

If an appeal is granted, the respondent will be afforded an opportunity to present the basis for it in person. An adviser is permitted on appeal, subject to the same role and limitations as an adviser in the hearing. The appeal administrator will review the record and consult with individuals with pertinent information to the extent necessary to decide the appeal. It should be noted that the burden of proof in an appeal shifts to the respondent student or group, and that an appeal is *not* a rehearing of the case.

The appeal administrator may, after hearing the appeal, deny any change in the finding and sanctions, modify the finding and/or the sanctions, or vacate the finding in whole or in part and refer the case back to the hearing officer for further deliberation.

Relationship Violence and Sexual Assault Hearing

Relationship Violence and Sexual Assault Hearings adhere to the requirements of the 2013 Reauthorization of the Violence Against Women Act for resolving cases of sexual assault, domestic violence, dating violence, and stalking. In a Relationship Violence and Sexual Assault Hearing one or more Relationship Violence and Sexual Assault Hearing Officers hear complaints filed against students or groups when the alleged behavior includes sexual assault, domestic violence, dating violence, and stalking. Relationship Violence and Sexual Assault Hearing Officers are appointed by the Vice President for Student Development and Dean of Students, and are trained annually on issues related to these offenses and how to conduct a hearing process that protects the

safety of survivors and promotes accountability. One or more hearing officers may be appointed to hear a single case, and the use of the term hearing officer in this policy applies equally to cases in which multiple hearing officers are assigned. In the Relationship Violence and Sexual Assault Hearing process, a judicial coordinator is normally appointed to assist the hearing officer in an administrative role.

In the Relationship Violence and Sexual Assault Hearing process, complainants and respondents (parties) are entitled to all of the same opportunities during the investigation and resolution of the complaint. The judicial coordinator or hearing officer will provide the parties with a written notification of the charges as well as the date, time, and location of the hearing at least 5 business days before the hearing.

Advisers in the Relationship Violence and Sexual Assault Hearing Process

In the Relationship Violence and Sexual Assault Hearing process, parties have the right to have an adviser of their choice present during all interviews, conferences, and meetings, including the hearing. However, only one person designated as an adviser for a party is allowed access to the evidence. The extent to which the adviser may participate is limited to providing their advisee private support, guidance, or advice. During the hearing, the adviser may assist their advisee in formulating statements for the hearing officer. Such assistance, however, may not obstruct the orderly process of the hearing. The adviser may not directly interact with persons other than their advisee during the hearing.

Relationship Violence and Sexual Assault Hearing Process

The judicial coordinator will normally conduct individual pre-hearing meetings with each party to review the Relationship Violence and Sexual Assault Hearing process, the rights of the complainant and the respondent, and instructions for how the complainant, respondent, and their advisers may access the written documentation and all evidence for the case.

The parties may submit evidence for consideration to the Campus Safety investigator for the case at any time, up to 48 hours in advance of the hearing. The hearing officer will review the information and determine whether to add the information to the documentation. The hearing officer may choose to not include information that is repetitive or that is not relevant to the charges under consideration. The character of the complainant, respondent, and other parties to the case is not relevant in any hearing. Previous sexual history of the parties, other than with each other, is not relevant. Before the hearing, the respondent will be asked to indicate in writing whether they accept or

deny responsibility for violating College policy.

The only people attending a Relationship Violence and Sexual Assault Hearing are the hearing officer(s), the respondent and an adviser, and the complainant and an adviser. Additional individuals may be present during the hearing in full or in part, only at the request of the hearing officer for the purpose of providing additional relevant information or assisting the hearing officer to fulfill hearing officer functions. Relationship Violence and Sexual Assault Hearings are not recorded, and the recording of the hearing by parties, advisers, or any other individual present is prohibited. Hearings are not open to the public. The purpose of the hearing is to give parties the opportunity to present their side of the issue and for the hearing officer to determine whether the alleged violation(s) occurred.

At the Relationship Violence and Sexual Assault Hearing, parties will have the opportunity to again review the written documentation and all evidence for the case. The parties will have the opportunity to submit opening and closing statements, respond to questions by the hearing officer, and submit questions to the hearing officer to be asked of the other party. The hearing officer will review submitted questions for relevance and admissibility and may then ask the questions submitted by the other party.

After the hearing, the hearing officer will determine if the respondent is responsible or not responsible (including in situations in which the respondent admits responsibility) for the alleged violations. The hearing officer's determinations of responsibility or non-responsibility are based on a preponderance of the evidence standard (i.e., that which the hearing officer believes is more likely than not to have occurred based on the information presented). If the respondent is found responsible, the hearing officer will make a recommendation for sanctions to the Vice President for Student Development and Dean of Students.

The Vice President for Student Development and Dean of Students or their designee will make pertinent information pertaining to past offenses available to the hearing officers at the time sanctions are considered. Parties will be simultaneously notified in writing of the outcome of the hearing and procedures for appealing the decision (i.e., request for an appeal review).

Rights of the Complainant and Respondent in a Relationship Violence and Sexual Assault Hearing

When a student participates in the Relationship Violence and Sexual Assault Hearing process as a complainant or a respondent, they are afforded certain due process and procedural rights by the College:

- The complainant and respondent are

- entitled to all of the same opportunities during disciplinary proceedings.
- The complainant and respondent each has the right to have an adviser of their choice present during all interviews, conferences, and meetings, including the hearing, subject to the following limitations and roles:
 - o Only one person designated as an adviser for a party is allowed access to the evidence.
 - o The extent to which the adviser may participate is limited to providing their advisee private support, guidance, or advice. During the hearing, the adviser may assist their advisee in formulating statements for the hearing officer. Such assistance, however, may not obstruct the orderly process of the hearing. The adviser may not directly interact with persons other than their advisee during the hearing.
 - The right to examine in advance the investigative report and all evidence that will be presented at the hearing. However, parties do not have the right to make or receive copies of the investigative report or other evidence.
 - The right to question all evidence allowed at the hearing.
 - The right to present relevant evidence on their own behalf.
 - The right to testify or not to testify on their own behalf. The complainant and respondent may testify orally and/ or in writing. Exercising the right to remain silent will not be construed as a decision to withdraw a complaint by the complainant or an admission of responsibility by the respondent.
 - The right to attend or not attend the hearing. In choosing to not attend, the party forfeits their right to question evidence at the hearing.
 - The right to assurance that a hearing officer's determination of responsibility is based only on the evidence presented at the hearing.
 - The right to a hearing conducted without unreasonable delay following the respondent being notified of charges.
 - The right to simultaneous notification in writing of the outcome of the hearing and procedures for appealing the decision (i.e., request for an appeal review).
 - The right to simultaneous notification in writing if any part of the hearing decision is changed under appeal, as well as when the decision becomes final.

**ALBION COLLEGE
POLICY AND PROCEDURES FOR ADDRESSING
COMPLAINTS OF SEXUAL HARASSMENT**

I. SCOPE

The Policy and Procedures for Addressing Complaints of Sexual Harassment (Policy) applies to complaints of sexual harassment based on the alleged conduct of any Albion College faculty member, staff member, or student. Any Albion College student, any employee of the College or the College itself may file a complaint of sexual harassment against a faculty member, staff member, or student under this Policy. In those instances based on the alleged conduct of a student who is also an employee of the College, the Vice President for Student Development and Dean of Students¹ will determine whether the complaint will be addressed through the procedure for filing a complaint against a staff member or through the College Judicial Process.

II. POLICY

Albion College is committed to maintaining a living, learning, and working environment for students, faculty, and staff that is free of sexual harassment. Sexual harassment is contrary to the standards of the College community, and it is a barrier to fulfilling the College's academic mission. Sexual harassment is also illegal. It is prohibited in the employment context by Title VII of the 1964 Civil Rights Act, in the education context by Title IX of the Educational Amendments of 1972 and, in both employment and education contexts, by Michigan's Elliott-Larsen Civil Rights Act, adopted in 1976. It will not be tolerated at Albion College. All members of the College community have an obligation to participate in any investigation of a sexual harassment complaint.

Sexual harassment can be a very serious matter having far-reaching effects on the lives and careers of individuals. Intentionally false accusations can have similar impact. Both a person who sexually harasses another, and a person who knowingly and intentionally files a false complaint under this Policy, are subject to appropriate remedial action. An individual may engage in conduct of a sexual nature that may not be sufficiently severe, persistent, or pervasive to constitute sexual harassment as described below, but is nonetheless inappropriate. Such conduct may violate other College policies, and the College will take appropriate action.

III. DEFINITION OF SEXUAL HARASSMENT

For the purpose of determining whether a particular course of conduct constitutes sexual harassment under this Policy, the definition listed below will be used.

Unwelcome sexual advances, requests for sexual favors, and other oral or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, living environment, or participation in a College activity; or

2. Submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a College activity; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's employment or educational performance or creating an intimidating, hostile, offensive, or abusive environment for that individual's employment, education, living environment, or participation in a College activity.

Sexual assault that includes any incidents of "criminal sexual conduct" as defined by Michigan law will not be tolerated by Albion College. In addition to potentially constituting an offense under the Albion College Sexual Assault Policy, an incident of alleged sexual assault may also constitute sexual harassment.

Some examples of conduct that may constitute sexual harassment include, but are not limited to:

Unwanted sexual statements – sexual or "dirty" jokes, comments on physical attributes, spreading rumors about or rating others as to sexual activity or performance, talking about one's sexual activity in front of others, and displaying or distributing sexually explicit drawings, pictures, and/or written material. Unwanted sexual statements can be made in person, in writing, electronically (email, instant messaging, blogs, web pages, etc.), and otherwise.

Unwanted personal attention – letters, telephone calls, visits, pressure for sexual favors, pressure for unnecessary personal interaction, pressure for dates where a sexual/romantic intent appears evident but remains unwanted, and stalking.

Unwanted physical contact of a sexual nature or physical sexual advances – touching, hugging, kissing, fondling, touching oneself sexually for others to view, sexual assault, intercourse, or other sexual activity.

Conduct alleged to be sexual harassment will be evaluated by considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context, and duration of the questioned behavior. Although repeated incidents generally create a stronger claim of sexual harassment, one severe incident, even if isolated, can be sufficient.

This Policy addresses intentional and unintentional conduct. Sexually-related conduct forms the basis of a sexual harassment claim if a reasonable person, in view of all the surrounding circumstances, would consider it sufficiently severe, persistent or pervasive as to interfere unreasonably with academic, other educational, or employment performance or participation in a College activity or living environment.

Sexual harassment often occurs when one person has actual or apparent power or authority over another; however, it may also occur between individuals of equal status or rank within the College. It is also possible for a person who is not in a position of power or authority over another to sexually harass that person, such as a professor being sexually harassed by a student or a supervisor being sexually harassed by a supervisee. Sexual harassment can occur between persons of the same sex and persons of the opposite sex.

In the event of a complaint of sexual harassment, the College will in general, be unsympathetic to a defense based upon consent when the facts establish that a professional faculty-student, staff-student, or supervisor-employee power differential existed within the relationship.

Although sexual harassment as described and prohibited by this Policy includes a wide range of behaviors, it does not include certain discriminatory conduct even though that conduct may be otherwise unlawful, offensive, or prohibited by College policy. A finding of sexual harassment constitutes a violation of College policy.

IV. PROCEDURES

The College may deviate from these Procedures (e.g., processing a complaint during a break period) as necessary to achieve the goals of prompt, thorough, and effective complaint resolution in a procedurally fair manner with no unnecessary delays. The College recognizes that these types of matters can be difficult for all parties involved. As such, the College strives to complete the investigative phase within 60 calendar days. However, depending upon the nature and complexity of the investigation, investigations may be completed before or after this time frame.

A. Time Frame for Filing a Complaint

The College can take corrective action only when it becomes aware of problems. Therefore, the College encourages persons who believe that they have experienced or witnessed sexual harassment to come forward promptly and to seek assistance within the College. The College will work to achieve a fair and equitable resolution of all complaints of sexual harassment regardless of when the complaints are filed. Individuals also have the right to pursue a legal remedy for sexual harassment in addition to proceeding under this policy.

B. Lodging and Processing a Complaint Against a Student

An individual may file a complaint about alleged sexually harassing behavior by a student by contacting the Office of Campus Safety, Office of Residential Life, or the Student Development officeⁱ.

All complaints of alleged sexual harassment against a student will be referred to and managed according to the Albion College Judicial Process (including appeals). However, in those instances based on the alleged conduct of a student who is also an employee of the College, the Vice President for Student Development and Dean of Studentsⁱ will determine whether the complaint will be addressed through the procedure for filing a complaint against a staff member or through the College Judicial Process. A complete description of the Judicial Process, including appellate procedures, is contained in the *Albion College Student Handbook*.

C. Lodging and Processing a Complaint Against a Faculty Member or Staff Member

Complaints about alleged sexually harassing behavior of a College faculty member or staff member should be made by contacting the faculty member's or staff member's immediate supervisor, Office of Human Resources, or Vice President/Provost of the division in which the staff member works. All complaints will be forwarded to the Director for Human Resources at which time a Complaint Intake Form (CIF) will be completed.

A complaint against a faculty member or staff member must be processed under this Policy. Therefore, a faculty member Complainant may not initiate or process a complaint utilizing the Faculty Grievance Procedures. The person(s) who brings forward a complaint of sexual harassment shall be designated as the Complainant(s) and the answering party shall be designated as the Respondent.

1. Investigation

The College shall investigate all complaints of alleged sexual harassment against a faculty member or staff member. The Director for Human Resources, Associate Provost, and Director for Campus Safety or their designees (the “Investigators”) shall perform the investigation. The Director of Human Resources shall ensure that there is male and female gender representation among the Investigators. Designees shall be appointed by the Investigator in consultation with the Senior Officer of the College who supervises an Investigator to be replaced.

The purpose of an investigation, that will include interviewing the parties and witnesses as appropriate, is to gather and assess evidence. The standard of proof used to determine the facts of the case will be a “preponderance of the evidence” standard (i.e., that which is believed is more likely than not to have occurred based on the information presented).

2. Outcome

At the conclusion of the investigation, the Investigators will prepare a written report of the investigation that will include a determination regarding the merit of the allegations. This will be the end of the Investigators’ involvement in the matter. Possible outcomes of an investigation are (1) a finding that the allegations are not warranted or could not be substantiated, (2) a finding that the allegations are substantiated and constitute sexual harassment or other inappropriate behavior, and, if so, referral to the appropriate administrator for appropriate remedial action. This report will be provided to the appropriate administrator who is the person who (a) serves on the President’s Administrative Council (PAC), and (b) is a Senior Officer of the College (e.g., Provost or Vice President). A copy of the report will also be provided to other College officials as necessary to ensure proper resolution and follow-up regarding the matter.

If sexual harassment or other inappropriate behavior is substantiated, the appropriate administrator makes the final determination of what, if any, remedial action will be taken. Remedial Action may include, but is not limited to, education, training, negotiated settlement of the complaint, a warning, a reprimand, a suspension, or termination of employment. The severity of the remedial action will depend on the frequency, duration, and/or severity of the offense, and any history of similar conduct. Prior to determining remedial action, the appropriate administrator will consult with the Director for Human Resources. In the case where the Respondent is a faculty member and dismissal for cause is being considered, the Dismissal for Cause section 2.14.5 of the *Albion College Faculty Handbook* will be followed.

In all cases including those that fall under dismissal for cause, the appropriate administrator will communicate the finding and remedial action (if applicable) in a letter to the Respondent. This administrator will communicate the finding in a letter to the Complainant as well as a description of the remedial action that the administrator has deemed appropriate when there has been a

finding of sexual harassment pursuant to this Policy. These letters and the Investigators' report are kept on file by the appropriate administrator. In cases where the Respondent is found responsible, a copy of the letter to the Respondent will also be filed in the Respondent's Human Resources Office personnel file. The Investigators' report will be kept on file in the Human Resources office.

3. Appealing the Outcome

Appeals by bargaining unit employees shall be processed in accordance with the grievance procedure outlined in the applicable Labor Agreement.

A Respondent faculty member has the right to one appeal in accordance with the "Faculty Grievance Procedures: Procedure for Type 3 Grievances" in the *Albion College Faculty Handbook 2.15.7*.

All other staff members have the right to one appeal of the Finding(s) and/or Sanction(s) to the appellate administrator. The appellate administrator is the direct supervisor of the appropriate administrator or designee who serves on PAC. Appeals will only be considered when based on at least one of the four criteria listed below.

- There were Policy process procedural errors that substantially affected the rights of the Respondent;
- New evidence has been discovered that is of a character directly affecting the decision;
- The decision is incompatible with the evidence; and/or
- The penalty is excessive.

The appellate administrator communicates the appeal decision in writing to the Respondent, Complainant, PAC appropriate administrator, and Director for Human Resources.

Appeals will be submitted in writing to the appellate administrator within ten (10) business days of receiving the written final determination.

D. Advocacy

Investigators do not function as advocates for Complainants or Respondents. Investigators can, however, identify support resources for Complainants and Respondents.

E. Support Persons

During the investigative process, the person filing the complaint or the person against whom the complaint is filed may have a support person present. This person must be a full-time student, full-time faculty member, or full-time staff member who is not an attorney and is not a witness to the behavior in question. A support person may be present during interviews or other meetings related to this procedure, but may not participate or interfere through his or her presence in the investigative process.

F. College Action

The College may assume the role of a Complainant and pursue a report or complaint of sexual harassment. The College may respond to complaints or reports by persons external to the College community about alleged sexually harassing conduct by College faculty members, staff members, or students.

G. Anonymous Complaints

The College may not be able to resolve a complaint filed anonymously unless sufficient information is furnished to enable the College to conduct a meaningful and fair investigation.

H. Retaliation

Retaliation against a person who reports, complains about, or participates in an investigation or other procedures for addressing complaints of a sexual harassment allegation will not be tolerated. Persons should notify the Director for Human Resources or Director for Campus Safety in a prompt manner if they believe they have been retaliated against so that the behavior can be investigated. If the College determines retaliation has occurred, then an individual who retaliated against someone who participated in any part of the procedures will be subject to appropriate remedial action.

I. Confidentiality

Sexual harassment complaints will be handled in a confidential manner to the extent possible and consistent with principles of due process.

J. Conflict of Interest

A conflict of interest is a significant professional or personal involvement with the facts or the parties to a dispute. Any participant or administrator who has a conflict of interest in a dispute covered by these procedures, or a concern about a conflict on the part of another, will report it to the Director for Human Resources. The Director for Human Resources will decide how to address the situation. If there is a conflict of interest involving the Director for Human Resources, the Director's supervisor will decide how to address the situation. If there is a conflict of interest involving the PAC appropriate administrator, the President will decide how to address the situation. If there is a conflict of interest involving the President, the Chair of the Board of Trustees will decide how to address the situation.

Approved by the Board of Trustees (May 13, 2011)ⁱⁱ

ⁱ In 2019, the Division of Student Affairs was renamed the Division of Student Development. The Vice President for Student Affairs and Dean of Students position was renamed Vice President for Student Development and Dean of Students. References to the division, office, and vice president in this Policy have been updated to reflect these changes. (July 29, 2019)

ⁱⁱ Albion College acknowledges that best practices which include state and federal laws and/or regulations, continue to change, e.g., 2013 Reauthorization of Violence Against Women Act (VAWA). Consequently, if College policies and procedures conflict with or are not in line with current best practices, then current best practices, including state and federal laws and/or regulations, will take precedence over conflicting College policies and procedures. (February 13, 2016)

Sexual Assault Relationship Violence Sexual Harassment

For survivors of sexual assault, dating or domestic violence, stalking, or sexual harassment, there are people on campus and in the community who are **here to support you.**

Confidential Resources

At Albion College:

Counseling Services

517-629-0236 (Mon-Fri, 8am-5pm)

After hours, call campus safety at 517-629-1234 and ask for the counselor on call

Local Sexual Assault Advocates (LSAAs) – albion.edu/lssa

Most College employees (including faculty, staff, and RAs) are required to report incidents to the College. Only Counseling Services and LSAAs can maintain confidentiality. Survivors always choose whether to provide further details or participate in investigations.

In the Community:

Sexual Assault Services of Calhoun County

1-888-383-2192

Open 24/7 and able to provide a SANE Exam (medical care from a specially trained nurse)

Michigan Sexual Assault Hotline

1-855-VOICES4 (864-2374)

SAFE Place, Domestic Violence Shelter 1-888-664-9832

National Domestic Violence Hotline 1-800-799-7233

Chat online at thehotline.org

Reporting to the College

Lisa Locke

Title IX Coordinator

517-629-0206

Kenneth Snyder

Albion College Campus Safety

517-629-1234

Reporting to Law Enforcement

Albion Department of Public Safety
(City of Albion)

911 or 517-629-3933

Campus Safety will assist survivors reporting to local law enforcement upon request.

albion.edu/rvsa

Student Development

studentdevelopment@albion.edu

517-629-0750



Albion College



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