

Compass Student Handbook: Title IX Sexual Harassment Policy (Revised April 2021)

The policies and procedures stated herein shall control how Albright handles all matters of sexual harassment under Title IX for incidents involving students. These policies and procedures should be interpreted to incorporate any changes needed to make them consistent with Title IX.

A. Definitions of Sexual Harassment, Complainant, Respondent

1. Albright follows 34 C.F.R § 106.30(a)(1)-(3) in defining sexual harassment. Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

(a) An Albright employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's education program or activity.

(c) Sexual assault. Sexual assault is an offense classified as a forcible or nonforcible sex offense under either the Summary Reporting System (SRS) or the National Incident-Based Reporting System (NIBRS) of the Uniform Crime Reporting (UCR) system of the Federal Bureau of Investigation (FBI). Per the UCR, examples of sexual assault include, but are not limited to, the following:

- Forcible Rape (Except Statutory Rape): The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.
- Sexual Assault With An Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
- Forcible Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent.
- Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent.

(d) Dating Violence. Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the following factors: (a) The length of the relationship, (b) the type of relationship, and (c) the frequency of interaction between the persons involved in the relationship.

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(e) Domestic Violence. Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Pennsylvania, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

(f) Stalking. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety, or the safety of others, or suffer substantial emotional distress.

2. A Complainant is an individual who is alleged to be the target of conduct that could constitute sexual harassment.

3. A Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

B. Filing a Report with the Title IX Coordinator/Compliance Officer or a Deputy Coordinator

Any person may report sexual harassment to the Title IX Coordinator/Compliance Officer or a Deputy Coordinator. These individuals can be reached in person, by mail, by telephone, by email, or by any other means that results in them receiving a verbal or written report. A report can be made at any time of day, including during non-business hours.

Ms. Becki Achey is Albright's Title IX Coordinator/Compliance Officer and can be contacted at:

Becki Achey
Acting Dean of Students, Albright College
Selwyn Hall
Reading, PA 19612
610-921-7663
bachey@albright.edu

Additionally, any person can make an anonymous report of sexual harassment via the Albright College website here:

<https://www.albright.edu/academic/college-catalog/student-life/discrimination-harassment-or-sexual-misconduct-anonymous-complaint-form/>

Please note that any *reports* made to a Deputy Coordinator are not considered *formal complaints*. As described further below in Section D, formal complaints must be filed with the Title IX Coordinator/Compliance Officer.

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Albright requires that its Title IX Coordinator/Compliance Officer and its Deputy Coordinator have no conflict of interest or bias for or against Complainants or Respondents generally, as well no conflict of interest or bias for or against any individual Complainant or Respondent.

C. Supportive Measures

Supportive measures are not punitive, and they are free services that Albright offers to a Complainant or a Respondent before or after the filing of a formal complaint or even without a formal complaint.

Supportive measures may include, but are not limited to: no contact orders, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, changes in work or housing locations and leaves of absence.

Upon notice of allegations of sexual harassment, Albright is committed to treating Complainants and Respondents equitably. Even before the filing of any formal complaint, when the college receives a report of allegations involving sexual harassment, the Title IX Coordinator/Compliance Officer will contact the Complainant to discuss possible supportive measures and the process for filing a formal complaint. Similarly, to treat the Respondent equitably, no disciplinary sanctions or other actions that are not supportive measures will be applied against a Respondent prior to the conclusion of Albright's grievance process.

D. Filing a Formal Complaint

A Complainant may file a formal complaint only with the Title IX Coordinator/Compliance Officer. At the time of filing a formal complaint, the Complainant must be participating in or attempting to participate in an educational program or activity offered by Albright.

A formal complaint is a document or electronic submission from the Complainant to the Title IX Coordinator/Compliance Officer that 1) alleges sexual harassment against a Respondent(s), 2) requests that Albright investigate the allegation, and 3) includes the Complainant's physical or digital signature or otherwise indicates that the Complainant is the person filing the complaint. When filing a complaint, a Complainant may, but need not, identify a Respondent(s). Please note that there are precise requirements that must be followed to submit a formal complaint, and a failure to follow any of the requirements will result in no formal complaint being filed.

A Complainant may file a formal complainant with the Title IX Coordinator/Compliance Officer in person, by mail, or by electronic mail. Given that a formal complaint must be a document or an electronic submission (such as an email), it is not possible to file a formal complaint with the Title IX Coordinator/Compliance Officer by telephone.

At any time after filing a complaint, a Complainant may notify the Title IX Coordinator/Compliance Officer in writing that they would like to withdraw the complaint or any allegations contained in it.

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If the Title IX Coordinator/Compliance Officer has notice of allegations of sexual harassment, the Title IX Coordinator/Compliance Officer may choose to file a formal complaint even if a Complainant chooses not to file one.

E. Written Notice after a Formal Complaint

After a formal complaint is filed, and before any initial interviews, Albright will provide a written notice to the parties who are known.

The written notice will contain:

- An overview of how Albright investigates and adjudicates formal complaints, rights regarding an appeal, and any applicable informal resolution process that may be available.
- Sufficient details surrounding the allegations of sexual harassment. These details will include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.
- Notice that the Respondent is presumed not responsible for the alleged conduct until a determination is made at the end of Albright's grievance process.
- Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- Notice that, after its investigation, Albright will provide both parties, and if they have any advisors their advisors, any evidence obtained that is directly related to the allegations raised so that the parties can inspect and review it.
- Notice of Albright's provision on Acts of Dishonesty in its Code of Conduct which prohibits the parties from knowingly making false statements or knowingly submitting false information throughout the grievance process.

F. Notice to Appear

Along with the written notice issued after the filing of a formal complaint, both the Complainant and the Respondent will receive a "Notice to Appear."

The Notice to Appear is delivered by Public Safety and requires the Complainant's and the Respondent's signatures.

The Notice to Appear is not an admission of responsibility or an acceptance of the charged violation; it is an acknowledgement and a requirement to attend an Informational Meeting.

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No Informational Meeting will be scheduled earlier than 7 business days after Public Safety delivers the Notice to Appear to both the Complainant and the Respondent so that the parties have sufficient time to prepare a response.

G. Informational Meeting

Informational meetings are scheduled separately with both the Complainant and the Respondent.

The Title IX Coordinator/Compliance Officer will be present at the informational meeting.

As a part of the official records that Albright maintains regarding its investigation of incidents involving allegations of sexual harassment, the college may record the informational meeting. It will give notice to the parties when doing so. Given the college's duty to ensure the confidentiality of incidents involving allegations of sexual harassment, neither the Complainant or the Respondent is allowed to record the informational meeting.

At the informational meeting, there will be discussion of the charges, the notice to appear form, and the student's rights. Any applicable supportive measures will also be discussed with the Complainant and the Respondent. At the informational meeting, students will have the opportunity to ask all necessary questions. Family members, friends, advisors, and attorneys are not allowed at the informational meeting. Procedures for Board hearings will also be discussed at the informational meeting.

Further, at the informational meeting, if the Complainant or the Respondent does not already have an advisor, there will be discussion of any advisors available through the college. Moreover, when it comes to the Complainant and the Respondent, there will be a discussion of the consequences of not selecting an advisor when it comes to any hearing. These consequences include being unable to conduct cross examination of the other party, as well as being unable to cross examine the other party's witnesses.

It is the student's responsibility to attend the informational meeting when notified. If the student should encounter difficulties attending the informational meeting, it is the student's responsibility to notify the Office of Community Standards within 24 hours and reschedule the meeting.

During the informational meeting, students will be able to review documents pertinent to the charges. The Respondent will have the right to accept, or deny, responsibility for the actions the Complainant alleges. If the Respondent accepts responsibility for their alleged actions, the Office of Community Standards will issue an appropriate sanction. The Respondent will sign the charge form indicating that they accept full responsibility for the charges and will be required to fulfill any sanctions imposed for their actions. Students who accept responsibility during the informational meeting waive their rights to an investigation, a hearing, and the appeal process.

If the student does not accept responsibility for violation of the charges, then a Board hearing will be scheduled after Albright completes its Investigative Report.

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Student rights include:

- 1) The right to review relevant documents included in his/her disciplinary file.
- 2) The right not to be subjected to duress or threats or any form of coercion in order to gain an admission of accepting responsibility from the accused student.
- 3) Meeting to review the outcome of a hearing and the institutional appeal process at the student's request.
- 4) The right to confidentiality during disciplinary proceedings. Information will only be shared within the campus community on a need to know basis and generally in consultation with the student.
- 5) When there is a good cause, students have the right to temporarily delay the grievance process or receive limited extensions. When this occurs, Albright will provide written notice to the Complainant and the Respondent of the delay or extension and the reasons for it.
- 6) Albright will not use questions or evidence that seek the disclosure of information protected under a legally recognized privilege unless a person waives their privilege.
- 7) Throughout the grievance process, Albright will not make credibility determinations based solely on a person's status as a Complainant, Respondent, or witness.

H. Investigation and Investigative Report

When investigating a formal complaint, Albright bears the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility, and it will consider, objectively, all relevant evidence. Albright also requires that its Investigators have no conflict of interest or bias for or against Complainants or Respondents generally, as well as that Investigators have no conflict of interest or bias for or against any individual Complainant or Respondent.

Throughout its investigation, Albright will provide both parties an equal opportunity to present witnesses, including fact and expert witnesses, as well as other inculpatory or exculpatory evidence. Moreover, Albright will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

Any party or witness whose participation is invited or expected at any investigative interview or other meeting will be given written notice of the date, time, location, participants, and purpose of interviews or meetings, as well as sufficient time to prepare to participate in any interviews or meetings.

In conducting its investigation, Albright will develop an Investigative Report. In developing its Investigative Report, the Investigator(s) will not make any final determination regarding responsibility.

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Prior to the completion of the Investigative Report, the college will send both parties and, if they have any advisors at this time, their advisors *any* evidence the Investigator(s) obtained that is directly related to the allegations raised, and the parties will have at least 10 business days to submit a written response. The Investigator(s) will consider any written responses from the parties before completing the Investigative Report.

Related, at least 10 business days prior to a hearing, Albright will send both parties, and if they have any advisors at this time, their advisors an electronic or hardcopy of the final Investigative Report, and the parties will have the opportunity to submit a written response to this evidence. When the college sends a copy of the final Investigative Report to the parties, it will also send a copy of the final Investigative Report to the Community Standards Board.

Furthermore, any evidence that Albright obtains as a part of its investigation will be available at the hearing so that both parties can inspect it, review it, and refer to it during the hearing. Parties will also be able to inspect, review, and refer to this evidence during the hearing for purposes of cross-examination.

Finally, the Investigator(s) will be present at the Community Standards Hearing as a witness. As a witness, at any hearing, the Investigator(s) will not make any recommendations regarding a final determination regarding responsibility. The Investigator(s) role at hearings is described further below in Section K "Board Hearings."

I. Community Standards Board Hearing

The Community Standards Board hears any Title IX matters involving sexual harassment.

Parties have the right to an advisor at a Community Standards Board Hearing. This advisor may be any person of a student's choice, and it may include, but is not limited to, a family member, a friend, a faculty member, or an attorney.

The Community Standards Hearing Board is composed of faculty, staff and administrators. It is vested with the responsibility of resolving matters related to alleged violations of the Student Code of Conduct. Hearing Board members are trained specifically on matters that may be brought to Board hearings. Training happens regularly once per academic year and then on an ongoing basis as necessary and/or as mandates require.

The purpose of the Board is to be educative by redirecting behavior and increasing student awareness of the behavioral expectations of the Albright College community; however, the Board needs to weigh the rights of the Respondent against the welfare of the Albright College community.

Albright College and the policy of the Board require that all hearings before it be completely closed and confidential. The names of all parties in a case, including names of all witnesses, and information, both written and verbal, pertaining to the case, whether pending or completed, must not be revealed to any person other than Board Members responsible for hearing the case

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or Albright College employees designated in the Student Code of Conduct as participants in the Albright College Student Conduct Process. Members of the various Boards or panels are obliged to refrain from discussing cases with anyone other than fellow members. At no time should a Board member be involved in the decision-making process when they have a vested interest in the outcome of the case. Any prior knowledge about the case or personal involvement with the reporting party, responding party, or a witness that would give cause for the Board member to be biased or prejudiced in the decision-making process is sufficient justification for removing oneself, or for being removed, from the deliberations. Related, if any Board member has any bias for or against Complainants or Respondents generally, then that provides sufficient justification for removing oneself, or for being removed, from the deliberations.

It is the responsibility of every member to consider, objectively, all relevant evidence to reach a fair and just decision. The confidential nature of the hearings pertains not only to the testimony presented but also to decisions rendered. The vote of each member is confidential and should not be discussed outside the executive session. Decisions of a Board are assumed to be that of the Board as a whole.

Unless the person is an advisor, family members, friends and attorneys are not permitted to sit in on hearing proceedings. Only the public safety director or designee/officer(s), Board members, Investigator(s), Complainant, Respondent, witnesses, advisors, members of the Office of Community Standards, or any other individuals that the college deems appropriate, are allowed in the hearing room.

Hearings will be digitally recorded or, at the Board's discretion, recorded by a court reporter, and parties have a right to inspect and review the digital recording or transcript of the hearing. The Dean of Students Office, as well as the Office of Community Standards, must maintain records for the safety and protection of the college community as a whole. Disciplinary records will be maintained, including those that result in a finding of "not responsible". Disciplinary records are expunged seven years after the student's graduation from Albright College, if all sanctions are completed. Disciplinary records are maintained indefinitely for non-graduates to protect the college community.

J. Board Membership

Each member of the Board shall bear equal responsibility for service at the call of the Chairperson.

The Chairperson is a voting member of the Board. The Chair will guide the hearing along in an orderly fashion. All relevancy determinations will be made by the Board as a whole, and the Chair will serve as the public spokesperson on behalf of the Board's determinations. If the Chairperson cannot serve for a particular case, they can appoint a temporary Chairperson.

Community Standards Hearings may not commence unless a minimum of three Board members are present with at least one representative from each of two constituency groups. The presence

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of the Chair counts towards the minimum of the three Board members that must be present. The other two constituency groups that must be represented are:

- Faculty membership consists of full-time faculty members who complete training. A minimum of one member will be assigned to hear a particular case.
- Administrative and staff membership consists of administrative/staff members from any administrative division on campus who complete training. A minimum of one administrative/staff member will be assigned to hear a particular case.

In order to avoid tie-votes, all Community Standards Hearings must have an odd number of Board members, and all Board members must vote on all issues before the Board including on issues of relevancy at hearings. The Board will have either three or five members.

Finally, please note that Albright requires that, at a Community Standards Hearing, no Board Member can be a Title IX Investigator(s) or Albright's Title IX Coordinator/Compliance Officer.

K. Board Hearings

Hearings Process

- 1) Hearings will not occur any earlier than 10 business days after the completion of the Investigative Report.
- 2) Hearings will begin exactly on time. Students should notify the Office of Community Standards of any difficulties they may have getting to the hearing at the designated time and place.
- 3) If witnesses are to give statements at the hearing, both the Complainant and the Respondent must provide a list of witnesses (with contact information for each witness) to the Office of Community Standards 7 business days prior to the scheduled hearing. Further, upon receipt of the Complainant and the Respondent's witness lists, the Office of Community Standards will provide any witness who is invited to attend a hearing with a written notice of the date, time, location, participants, and purpose of the hearing, as well as sufficient time to prepare to participate in any hearing.

Finally, after receiving the Complainant and the Respondent's list of witnesses, the Office of Community Standards will also provide the Community Standards Board with these lists.

- 4) Albright will make recordings or transcripts of all hearings and maintain all records on file within the Office of Community Standards. Tapes or digital recordings or transcripts may be reviewed by college personnel external to the hearing if the decision is appealed. Albright's recording of the hearing will be available to the parties for their inspection and review.

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- 5) Hearings are confidential.
- 6) Any student or group referred to the Board is requested to appear at the time set for the hearing. If the student or group or its representative fails to appear without providing a good cause beforehand, the case shall be heard without the person(s) present.
- 7) The Complainant, Respondent, and witnesses will be administered an oath by the Chair. The giving of false information by a student, faculty member, administrator/staff personnel to the Board is a serious matter and will lead to appropriate disciplinary action. All persons appearing before the Board shall be informed of this fact.
- 8) If a party attends a hearing without an advisor, Albright will offer to provide one free of charge. [At the Informational Meeting, students are requested to state if they need the college to appoint an advisor.]
- 9) At the hearing, each party's advisor will be permitted to ask the other party and any witnesses, including expert witnesses, all relevant questions, including follow-up questions. Each party's advisor will also be permitted to cross-examine the other party and the other party's witnesses.
- 10) There are only two situations where questions and evidence about a Complainant's sexual predisposition or prior sexual behavior are relevant: i) Where the questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, and ii) Where the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove consent. Beyond these two situations, questions about a Complainant's sexual predisposition or prior sexual behavior are not relevant.
- 11) While, at a hearing, the Board can ask questions aimed to elicit information from parties and witnesses; unlike the Complainant and Respondent's advisors, they cannot ask questions that challenge someone's plausibility, credibility, reliability, motives, or consistency.
- 12) If a party or witness does not answer any questions, in making its final determination, the Board will not make any inference regarding responsibility based solely on a party or witness's refusal to answer questions. Similarly, if a party or a witness is absent from the hearing, in making its final determination, the Board will not make any inference regarding responsibility based solely on a party or witness's absence.
- 13) If a party or witness does not submit to cross-examination, the Board cannot rely on *any* statement of that party or witness in reaching a determination regarding responsibility.
- 14) The Title IX Coordinator, or an Investigator, will have available at the hearing a written statement regarding the procedural steps that Albright took prior to the start of the hearing. This statement will include a description of any notifications made to the parties, interviews that were conducted with parties and witnesses, site visits, and methods used to gather other evidence. At the hearing, this written statement will be provided to the

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Board and a copy will be given to the parties. [Please note, that after a hearing, in its written determination, the Board will discuss not only the procedural steps taken prior to a hearing, but, in its discussion of procedural steps, the Board will also add a discussion reviewing the hearing held.]

- 15) At Albright's discretion, any or all parties, witnesses, and other participants may appear at the hearing virtually through technology that enables all participants to simultaneously see and hear each other.
- 16) At the request of either party, Albright will provide for a live hearing to occur with the parties located in separate rooms with technology that enables the decision-maker(s) and parties to hear and see each other.
- 17) Upon receipt of the Complainant and the Respondent's witness lists prior to a hearing, the Board may ask the Office of Community Standards to request that other witnesses be present at the hearing that are not called by the Complainant or the Respondent. Upon receiving such a request, the Office of Community Standards will provide any witness who is invited to attend a hearing with a written notice of the date, time, location, participants, and purpose of the hearing, as well as sufficient time to prepare to participate in any hearing.

The Board also recognizes that anyone that it requests to be present at the hearing has the right to refuse to participate. Moreover, Albright will not intimidate, threaten, coerce, punish, retaliate against, or discriminate against anyone that exercises their right to refuse to participate in a hearing. To the extent that it is possible and practical for it to do so, if the Board request any witnesses to be present at a hearing that are not called by the Complainant or the Respondent, the Office of Community Standards will notify the Complainant and the Respondent, and their advisors, of such requests prior to a hearing.

- 18) At the hearing, both the Complainant and the Respondent will be given the opportunity to challenge the participation of a specific hearing Board member on that grounds that a Board member has a bias against Complainants or Respondents generally or against the Complainant or Respondent individually.
- 19) During a hearing, if the Board believes that it would benefit from hearing from a witness not called by either the Complainant or the Respondent, the Board may either temporarily delay the hearing or schedule a continuation of the hearing at a future date so that the Board can ask the Office of Community Standards to request that this witness be present. Upon receiving such a request, the Office of Community Standards will provide any witness who is invited to attend a hearing with a written notice of the date, time, location, participants, and purpose of the hearing, as well as sufficient time to prepare to participate in any hearing.

The Board also recognizes that anyone that it requests to be present at the hearing has the right to refuse to participate. Moreover, Albright will not intimidate, threaten, coerce, punish, retaliate against, or discriminate against anyone that exercises their right to refuse to participate in a hearing. In the event that the Board temporarily delays a hearing or schedules a continuation of a hearing at a future date in an attempt to hear from a witness

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not requested by the Complainant or the Respondent, the Complainant and the Respondent and any necessary participants in a hearing will receive a written notice from the Office of Community Standards explaining the reason for the delay in the hearing process and stating when the hearing will reconvene.

- 20) During a hearing, the Board has the right to temporarily delay a hearing or schedule a continuation of a hearing when there is good cause to do so. In the event that the Board temporarily delays a hearing or schedules a continuation of a hearing at a future date for good cause, the Complainant and the Respondent and any necessary participants in a hearing will receive a written notice from the Office of Community Standards explaining the reason for the delay in the hearing process and stating when the hearing will reconvene.
- 21) During a hearing, the Board reserves the right to have its own attorneys or counsel present on its behalf.

Hearing Decorum

Albright is committed to the respectful treatment of all individuals involved in a Community Standards Hearing. To that end, the following rules of decorum are to be followed at any hearing.

- 1) Everyone involved in a hearing must treat the other individuals present with dignity and respect.
- 2) All questions asked should be asked with a respectful tone.
- 3) Parties and advisors will refer to other parties, witnesses, advisors, and institutional staff using a person's preferred name and gender and shall not intentionally misname or misgender that person in communication or questioning.
- 4) After a question is asked by an advisor, before answering, the Complainant, the Respondent, and any witnesses should pause to see if the Board raises relevancy objections. The Board will make a determination regarding the relevancy of any questions asked, and the Complainant, the Respondent and any witnesses must follow the Board's directions when it comes to answering any questions deemed irrelevant.
- 5) No individual present at a hearing may act abusively or disrespectfully during the hearing toward any other individual.
- 6) During cross-examination, an advisor:
 - a. May not yell, scream, badger, or physically "lean in" to a party or witness's personal space;
 - b. May not approach the other party or witnesses without first obtaining permission from the Board;
 - c. May not use profanity or make irrelevant *ad hominem* attacks upon a party or witness;

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- d. May not continue to try to ask questions that the Board has already deemed irrelevant;
- 7) Advisors may not ask questions out of turn.
- 8) To avoid disruption to the hearing, no one should leave the hearing room or any virtual meeting unless they first receive permission from the Board or unless the Board calls for a temporary break.
- 9) No one is allowed to wear any intimidating or harassing apparel or clothing to a hearing.
- 10) Those present at a hearing should remain silent unless they are called upon to speak by the Board or unless they are answering questions from a party's advisor. During a hearing, no party or witness or individual present is allowed to engage in disruptive activities including, but not limited to, loud whispering, applause, heckling, outbursts, the use of profanity, or other disruptive behavior.
- 11) Any cellular telephones or smartphones brought into a hearing room must be turned to the "OFF" setting during proceedings. Even phones on a "vibrate" setting can be disruptive.
- 12) The Respondent, the Complainant, any witnesses, and any advisors should not engage in any text messaging during a hearing.
- 13) Unless permission is granted by the Board, during a hearing, the Respondent, the Complainant, any witnesses, and any advisors should not engage in any communications of any sort with any individuals not present at the hearing.
- 14) Beyond the official transcript or recording of the hearing conducted by Albright, no individual is authorized to record a hearing.

If the Complainant, the Respondent, any witnesses, or any advisor violates any rules of decorum, the Board may exercise their discretion to issue what they deem to be an appropriate sanction. These sanctions may include, but are not limited to, a verbal warning, a pause in the hearing process, or asking the Complainant, the Respondent, any advisors, or any witnesses to leave a hearing. If the Board asks the Complainant, the Respondent, any advisors, or any witnesses to leave the hearing, the Board may continue the hearing in the absence of the disruptive individual. Alternatively, the Board, at their discretion, may temporarily adjourn the hearing. In such an event, the participants in a hearing will receive a written notice from Albright explaining the reason for the delay in the hearing process and stating when the hearing will reconvene.

Not only may the Board ask any advisor to leave a hearing for violating any rules of decorum, but the Board reserve the right to require a party to use a different advisor. In the event that the Board asks an advisor to leave a hearing, or requires a party to use a different advisor, the Board may temporarily adjourn the hearing. In such an event, the participants in a hearing will receive a written notice from Albright explaining the reason for the delay in the hearing process and stating when the hearing will reconvene.

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Furthermore, in the event that the Board requires a party to use a different advisor, the Board will make note of this, and the reasons for their decision, in their written determination of responsibility.

Finally, in the event that the Board requires a party to use a different advisor, the Board has the right to make a recommendation to Albright to forbid that advisor from serving as an advisor at any future hearings, and, moreover, the college reserves the right to act upon such a recommendation from the Board.

Hearing Procedures

- 1) Call to order by the Chairperson.
- 2) Verification of a minimum of three Board members, as well as an odd number of Board members.
- 3) The Chairperson will read the complaint against the Respondent. After reading the complaint, the Chairperson will remind everyone present that the Respondent is presumed not responsible for the alleged conduct until a determination of responsibility is made at the end of this grievance process. Moreover, the Chair will remind everyone that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on Albright College, not the Respondent or the Complainant. After making these reminders, the Chair will give the Respondent the opportunity to plead “responsible” or “not responsible” for each charge.
- 4) If the Complainant or the Respondent fails to attend the hearing without providing good cause beforehand, the hearing will continue in his/her absence.
- 5) The Investigator(s) will make brief remarks on the following topics:
 - (a) The date and time regarding when the Complainant first contacted Public Safety.
 - (b) The actions Public Safety took after being contacted by the Complainant (i.e. transporting the Complainant from a dormitory to Public Safety, taking the Complainant to a hospital or the Gable Health Center, contacting any police departments, etc.).
 - (c) The evidence acquired by Public Safety during its investigation (i.e. clothing, text-messages, etc..).
 - (d) The names of any individuals interviewed as a part of its Investigation, as well as the date and times for those interviews.
- 6) Complainant proceeds as follows.
 - (a) Complainant or Complainant’s advisor makes opening statements.
 - (b) The Complainant presents factual testimony supporting the charges, or the Complainant through questioning from the Complainant’s advisor, presents factual testimony supporting the charges.

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- (c) The Respondent's advisor may question the Complainant.
 - (d) After the Respondent's advisor questions the Complainant, the Board may question the Complainant.
 - (e) After the Board questions the Complainant, the Complainant's advisor will be given a final opportunity to question the Complainant.
 - (f) After the Complainant's advisor is given a final opportunity to question the Complainant, the Respondent's advisor will be given a final opportunity to cross-examine the Complainant.
- 7) Complainant's advisor calls witnesses one-by-one.
- (a) Immediately after a witness is called and questioned by the Complainant's advisor, the Respondent's advisor will be given the opportunity to cross-examine that witness.
 - (b) After the Respondent's advisor cross-examines a witness, the Board will be given the opportunity to ask questions of that witness.
 - (c) After the Board asks questions of a witness, the Complainant's advisor will be given a final opportunity to question that witness.
 - (d) After the Complainant's advisor has a final opportunity to question a witness, the Respondent's advisor will be given a final opportunity to cross-examine that witness.
 - (e) Process (a)-(d) will repeat for each of the Complainant's witnesses until all of the Complainant's witnesses are questioned and cross-examined.
- 8) Respondent proceeds as follows.
- (a) Respondent or Respondent's advisor makes opening statements.
 - (b) The Respondent presents factual testimony supporting the charges, or the Respondent through questioning from the Respondent's advisor, presents factual testimony supporting the charges.
 - (c) The Complainant's advisor may question the Respondent.
 - (d) After the Complainant's advisor questions the Respondent, the Board may question the Respondent.
 - (e) After the Board questions the Respondent, the Respondent's advisor will be given a final opportunity to question the Respondent.
 - (f) After the Respondent's advisor is given a final opportunity to question the Respondent, the Complainant's advisor will be given a final opportunity to cross-examine the Respondent.
- 9) Respondent's advisor calls witnesses one-by-one.
- (a) Immediately after a witness is called and questioned by the Respondent's advisor, the Complainant's advisor will be given the opportunity to cross-examine that witness.
 - (b) After the Complainant's advisor cross-examines a witness, the Board will be given the opportunity to ask questions of that witness.
 - (c) After the Board asks questions of a witness, the Respondent's advisor will be given a final opportunity to question that witness.

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- (d) After the Respondent's advisor has a final opportunity to question a witness, the Complainant's advisor will be given a final opportunity to cross-examine that witness.
 - (e) Process (a)-(d) will repeat for each of the Respondent's witnesses until all of the Respondent's witnesses are questioned and cross-examined.
- 10) The Board will call and question any witnesses that it requested come to the hearing that were not requested by either the Complainant or the Respondent. These witnesses will be called and questioned one-by-one.
- (a) After the Board calls and questions a witness, the Complainant's advisor will be given the opportunity to cross-examine that witness.
 - (b) After the Complainant's advisor is given the opportunity to cross-examine that witness, the Respondent's advisor will be given the opportunity to cross-examine that witness.
- 11) The Investigator(s) will serve as the last witness. As a witness, the Investigator(s) will not make any recommendations regarding a final determination regarding responsibility. Further, as a witness, the Investigator(s) will not testify as to any statements made by an individual, including the Complainant or the Respondent, if that individual did not submit to cross-examination.
- (a) Complainant's advisor may question the Investigator(s).
 - (b) Respondent's advisor may question the Investigator(s).
 - (c) The Board may question the Investigator(s).
 - (d) The Complainant's advisor will be given a final opportunity to question the Investigator(s).
 - (e) The Respondent's advisor will be given a final opportunity to question the Investigator(s).
 - (f) If there are multiple Investigators, process (a)-(e) will repeat for each Investigator until all of the Investigators are questioned and cross-examined.
- 12) Summary by Complainant.
- 13) Summary by Respondent.
- 14) The Chairperson excuses all witnesses, advisors, the Complainant and the Respondent so that the Board can go into deliberations (confidential). The Director of Community Standards shall not be present at deliberations but shall remain available to the Board to provide information after a verdict for the purposes noted below in paragraph (18).
- 15) The Board shall review and evaluate, objectively, all relevant evidence under the standard of "preponderance of the evidence."
- 16) The Board shall vote on each charge separately "responsible" or "not responsible."
- 17) Voting shall be by open ballot.

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- 18) If the Respondent is found “responsible,” the Director of Community standards shall report to the Board any past disciplinary matters and sanctions in the accused student’s file.
- 19) The Board shall recommend sanctions within the progressive discipline model.
- 20) The Board has seven business days to render their decision and notify the Title IX Coordinator/Compliance Officer.
 - (a) Upon the receipt of the decision, the Title IX Coordinator/Compliance Officer will notify, simultaneously, both parties of its decision, in writing, within two business days.
 - (b) The Complainant and the Respondent will then meet with the Title IX Coordinator/Compliance Officer if necessary to discuss the results of the case.
 - (c) Follow-up meetings may occur if necessary.

L. Written Notification of Hearing Outcomes

The written determination will include:

- An identification of the allegations that potentially constituted sexual harassment.
- A description of the procedural steps that Albright took starting from the time it received the Complainant’s formal complaint and ending with the period at which the Board reached its determination. This description of the procedural steps that Albright took will include a review of any notifications it made to the parties, interviews that were conducted with parties and witnesses, site visits, methods used to gather other evidence, and a review of hearings held.
- Findings of fact that support the determination reached.
- Conclusions that Albright reached by applying its code of conducts to the facts.
- A statement and an explanation regarding the result reached for each allegation made by a Complainant.
- A determination regarding responsibility.
- A statement regarding any sanctions Albright will impose on the Respondent.
- A discussion regarding whether any of the remedies offered to the Complainant will be provided by Albright.
- An overview of the procedures and permissible reasons for either the Complainant or the Respondent to seek an appeal.

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The Title IX Coordinator/Compliance Officer will bear the responsibility for the effective implementation of any remedies that are provided.

If the Respondent is found responsible and a sanction is assessed, the Respondent will be given a deadline for completion.

If the Respondent fails to complete sanctions by the assigned deadline, the Respondent will be found “responsible” for not complying. Consequences may include, but are not limited to:

- 1) Accounts will be held so that students may not register for their next classes and no activity can be made with the account.
- 2) Students who are in their last year will have their diplomas withheld until all outstanding sanctions have been completed.
- 3) Fines
- 4) Removal from housing
- 5) Suspension/expulsion

The Senior Vice President of Student and Campus Life must maintain records for the safety and protection of the college community as a whole. Disciplinary records will be maintained, including those that result in a finding of “not responsible” for a violation through graduation and then will be expunged seven years after a student’s graduation.

Disciplinary records are maintained indefinitely for non-graduates and for students who have not completed their sanctions to protect the college community.

M. Informal Resolutions

After the filing of a formal complaint, parties are never required to agree to an informal resolution process. Moreover, Albright will not explore an informal resolution process in cases involving sexual assault or rape, and it will not be offered to resolve allegations that an employee sexually harassed a student. However, when appropriate, Albright may explore pursuing an informal resolution. Prior to pursuing an informal resolution, both parties must voluntarily agree, in writing, to enter the informal resolution process.

When pursuing an informal resolution, Albright will provide written notice to the parties disclosing:

- The allegations
- The requirements of the informal resolution, including any circumstances under which it precludes a party from resuming a formal complaint arising from the same allegations.

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Please note that, prior to agreeing to enter any informal resolution process, both parties have the right, at any time, to withdraw from the informal resolution process and resume the formal investigation and adjudication that commences upon filing a complaint.

Finally, those that oversee any informal resolution process will have no conflict of interest or bias for or against Complainants or Respondents generally, as well no conflict of interest or bias for or against any individual Complainant or Respondent.

N. Sanctions

At times, there may be one or more sanctions imposed if the student is found “responsible.” A student who has the sanction off campus is required to pay for their own travel expenses or any other additional expenses that may occur.

Student Sanctions (defined in Student Handbook) include but are not limited to:

- Warning
- No Contact Order
- Probation
- Required Counseling
- Removal from or Relocation of Housing Assignment
- Suspension
- Expulsion
- Withholding Diploma
- Revocation of Degree
- Organizational Sanctions
- Other Actions

O. Remedies

The Title IX Coordinator (or designee) may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the alleged victim and the community and to prevent further violations. The college will keep interim remedies and actions as private as possible.

Remedies may include but are not limited to:

- Referral to counseling and health services
- Education to the community
- Altering the housing situation of the responding party or reporting party (resident student or resident employee (or the alleged victim, if desired))
- Exclusion from education or extracurricular activities as may be necessary for the safety and welfare of the reporting party or the campus community
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations

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- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.
- A Timely Warning to the College community may be communicated

Pursuant to 34 C.F.R 106.44(c) and (d), the College may interim suspend or place on administrative leave a student, employee or organization pending the completion of an investigation and resolution, particularly when in the judgment of the appropriate College Official in consultation with the Title IX Coordinator, the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension or administrative leave is imposed, the student, employee or student organization will be given the opportunity to meet with the Title IX Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The College through the appropriate official has sole discretion to implement or stay an interim suspension under any applicable policies, and to determine its conditions and duration. Violation of an interim suspension under this policy is grounds for expulsion (student) or termination (faculty member or employee).

During an interim suspension or administrative leave, a student or employee may be denied access to college housing and/or the college campus/facilities/events. As determined by the appropriate administrative officer, Title IX Coordinator or designee, this restriction can include classes and/or all other college activities or privileges for which the student might otherwise be eligible. At the discretion of the appropriate administrative officer, Title IX Coordinator or designee, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures.

P. Dismissal or Consolidation of Formal Complaints

Albright will investigate the allegations in a formal complaint, but, for purposes of Title IX, after its investigation, Albright must dismiss formal complaints in the following circumstances:

- When the conduct alleged in the formal complainant would not constitute sexual harassment even if proved.
- When the conduct alleged, even if proved, did not occur in Albright's education program or activity.
- When the conduct alleged, even if proved, did not occur against a person in the United States.

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For purposes of Title IX, at any time during an investigation or hearing, Albright may dismiss formal complaints in the following circumstances:

- When a Complainant notifies the Title IX Coordinator/Compliance Officer in writing that the Complainant would like to withdraw the formal complaint or any allegations in it.
- When the Respondent is no longer enrolled or employed by Albright.
- When specific circumstances prevent Albright from gathering evidence sufficient to reach a determination as to the formal complaint or its allegations.

Upon any dismissal required or permitted for the purpose of Title IX, Albright will send a written notice of the dismissal, along with the reasons for it, simultaneously to both parties.

For purposes of Title IX, when the allegations of sexual harassment arise out of the same facts or circumstances, Albright may consolidate formal complaints:

- That involve allegations of sexual harassment against more than one Respondent.
- That involve allegations of sexual harassment by more than one Complainant against one or more Respondents.
- That involves allegations of sexual harassment by one party against the other party.

Q. Appeals

Both a Complainant and a Respondent may appeal a hearing decision. Likewise, students have a right to appeal decisions Albright makes to dismiss a formal complaint.

The student must file a written appeal directly to the Senior Vice President of Student and Campus Life (or designee) within seven business days of receipt of the decision.

The basis of appeal must meet one of the following criteria: (i) a procedural irregularity that affected the outcome of the matter; (ii) new evidence becomes available that was not reasonably available at the time the determination or dismissal was made that could affect the outcome of the matter; or (iii) the Title IX Coordinator/Compliance Officer, Investigator(s), or decision-makers(s) had a conflict of interest or bias against Complainants or Respondents generally or against the individual Complainant or Respondent that affected the outcome of the matter.

Please note that, at the hearing, both parties will be given the opportunity to challenge the participation of a specific hearing Board member on that grounds that a Board member has a bias against Complainants or Respondents generally or against the Complainant or Respondent individually. If, when given the opportunity to challenge the participation of a specific hearing

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Board member, a party fails to raise any known concerns in these regards, then that party may waive their right to raise those same concerns as a ground for an appeal.

When one party makes an appeal, the other party will be notified in writing of the appeal filed.

The decision-maker(s) for the appeal will not be the same individual(s) that made a determination regarding responsibility or that decided to dismiss a formal complaint. Likewise, the decision-makers for an appeal will not be an Investigator or the Title IX Coordinator/Compliance Officer. Also, the decisionmaker for an appeal will not have a conflict of interest or bias for or against Complainants or Respondents generally or for or against the individual Complainant or Respondent.

On appeal, a written determination will be made within 15 business days that describes the result of the appeal as well as the rationale behind it. Both parties will be notified simultaneously of the appeal decision in writing. The appeal decision is final, but, upon receiving the appeal decision, both parties will have 7 business days to submit a written statement supporting the outcome of the appeal or challenging it.

R. Records

For at least seven years, Albright will maintain records of:

- Any informational meetings recorded as a part of the Title IX grievance process.
- Each sexual harassment investigation and any determination regarding responsibility.
- The recording or transcript of any Board hearing.
- Sanctions imposed on any Respondent.
- Remedies provided to any Complainant.
- Any appeal regarding a determination of responsibility, as well as the results of the appeal.
- Any informal resolution, as well as the results of any informal resolution.
- All materials used to train Title IX Coordinators, Investigators, decision-makers, and any person who facilitates an informal resolution process.
- A record of any actions, including supportive measures taken, in response to a report or formal complaint of sexual harassment.

S. Delays for Good Cause

Throughout the grievance process, Albright has the right to institute temporary delays for good cause. Good cause may include, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. Upon instituting any delay in the

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grievance process, the Office of Community Standards will provide the Complainant and the Respondent with written notice of the delay and the reasons for it.

T. Retaliation

Albright prohibits any retaliation against any individual for the purpose of interfering with any right or privilege secured by Title IX or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Retaliation includes, but is not limited to, intimidation, threats, coercion, punishment, or discrimination. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation. Any complaints involving retaliation may be submitted to Title IX Coordinator/Compliance Officer so that they can be handled in an appropriate manner.

U. Definitions

Advisor: An individual who has agreed to assist a Respondent or Complainant during a Community Standards Hearing. Parties are entitled to an advisor of their choice, and their advisor may be, but is not required to be, an attorney. At a hearing, a party's advisor questions the other party, witnesses, and conducts cross examination. Unless they are an advisor, attorneys, friends, parents, and family members are not permitted to sit in the hearing room.

Business Day: A business day includes all days the college is in session as well as regular workdays even if the college is not in session.

Chairperson: For Board hearings, the Chairperson convenes the Board for meetings and hearings. The Chairperson is a voting member of the Board. At a hearing, the Chair publicly communicates the Board's decisions regarding relevancy determinations. If the Chairperson cannot serve for a particular case, they can appoint a temporary Chairperson.

College Official: Includes any person employed by the college, performing assigned administrative or professional responsibilities.

College Premises: Buildings or grounds owned, leased, operated, controlled or supervised by the college.

Complainant: A Complainant is an individual who is alleged to be the target of conduct that could constitute sexual harassment.

Consent: Written Consent: It is an explicit and verifiable expression of permission. Explicit verbal consent: Saying "yes" to a specific activity.

Evidence: Complainants and Respondents may bring evidence or exhibits to a Board hearing. The Board will consider, objectively, all relevant evidence when deliberating a case.

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Hearings: College hearings are not criminal or civil proceedings. They are processes administered by the college to find whether a student violated a college policy. The information gathered to find the student “responsible” or “not responsible” is based on the preponderance of evidence standard.

Informational Meeting: Meeting to discuss incident and to answer any questions the Complainant or the Respondent may have.

Preponderance of the Evidence: Standard of proof used to determine responsibility for charges. The standard asks is it more likely than not, based on the evidence and documentation presented, that the policy violation occurred.

Public Areas: Outside the residential hall room or within the room with the door open, includes lobby, main lounge, restroom, etc. Any area open to the public on the Albright College campus or at branch campus locations.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Student: Includes all persons taking courses at Albright College, both full-time and part-time, degree-seeking or non-degree-seeking.

Witnesses: A witness is anyone who was present during the incident, observed the policy violation, or has direct knowledge of the incident. The Complainant and the Respondent’s list of witnesses must be submitted to the Office of Community Standards 7 business days prior to a hearing.