

Title IX and Sexual Misconduct Policy

General Statement

The university will not tolerate sex- or gender-based discrimination, including sexual misconduct such as sexual harassment or sexual assault, whether done by university employees, students or third parties (i.e., non-members of the university community, such as vendors or visitors). Violation of this sex discrimination and sexual misconduct policy may lead to discipline of the offending party, including the possibility of separation from the university. Moreover, many forms of sexual and gender-based discrimination, including sexual harassment or sexual assault, may also violate state and federal law. Criminal prosecution may take place independently of any university-imposed disciplinary proceeding.

The policies used to address sex- or gender-based misconduct depend on the type, severity, and location of the behavior. The four separate areas of Regents' policy that might be used in response to reports of misconduct are Chapters 01.02 (Discrimination), 01.04 (Title IX), 04.07 (Employee Discipline) and 09.02 (Student Discipline). The applicable portions of policy are reproduced below.

Regents' Policy & University Regulation

(Note: This Handbook is not the official publication of Regents' Policy & University Regulation. Policies and regulations may be updated from time to time. To see the current versions, please visit the Board of Regents website (<https://www.alaska.edu/bor/policy-regulations/>)).

Chapter 01.02 – General Provisions [Excerpts]

01.02.020. Nondiscrimination.

It is the policy of the board that, in accordance with federal and state law, illegal discrimination against any individual because of race, religion, color, national origin, citizenship, age, sex, physical or mental disability, status as a protected veteran, marital status, changes in marital status, pregnancy, childbirth or related medical conditions, parenthood, sexual orientation, gender identity, political affiliation or belief, genetic information, or other legally protected status is prohibited. Decisions affecting individuals shall be based on the individual's qualifications, abilities and performance, as appropriate.

01.02.025. Discrimination.

A. The university will not permit or tolerate discrimination that creates an intimidating, hostile, or offensive working or learning environment, or that interferes with an individual's performance. The university recognizes that conduct which constitutes discrimination in employment or educational programs and activities is prohibited and will be subject to corrective and/or disciplinary action.

B. Sex and gender-based discrimination under Title IX is addressed in Regents' Policy and University Regulation 01.04.

C. Discrimination refers to being adversely treated or affected, either intentionally or unintentionally, in a manner that unlawfully differentiates or makes distinctions on the basis of the individual's legally protected status or on some basis other than an individual's qualifications, abilities and performance, as appropriate. The university will vigorously exercise its

authority to protect employees and students from discrimination by agents or employees of the university, students, visitors and guests.

D. Nothing contained in this policy will be construed or applied to limit or abridge any person's constitutional right to freedom of expression or to infringe upon the legitimate academic freedom or right of due process of any member of the university community. Principles of academic freedom and freedom of expression require tolerance of the expression of ideas and opinions even though they may be offensive to some. However, ideas and opinions must be expressed in a manner that does not create an intimidating, hostile, or offensive working or learning environment or unreasonably interferes with an individual's performance. The university upholds and adheres to principles of academic freedom and the laws prohibiting discrimination in employment and education.

E. Individuals who believe they have been subjected to discrimination are encouraged to bring this behavior or action to the attention of an employee or faculty member who is in a position to assist in addressing the concern. The affirmative action officer, human resources or student affairs officer, or designee, as appropriate, will mediate disputes, receive complaints, obtain process information, or discuss resolution options regarding discrimination complaints.

F. The university cannot guarantee confidentiality in connection with complaints alleging discrimination; however, all university employees and students are expected to make a reasonable effort to protect the legitimate privacy interests of involved persons consistent with their obligation to inform the accused.

G. Nothing in this policy will be construed or applied to create a right to an award of damages or other monetary compensation against the university or university employees beyond any existing under state or federal law.

01.02.080. Administrative Response to Reports of Misconduct.

A. Prompt reporting of allegations of misconduct involving members of the university community is expected and in some cases required by law, Regents' Policy, or University Regulation. Prompt reporting contributes to thorough and fair investigations and proceedings, as well as the university's ability to provide meaningful remedies that might avert more serious impacts.

B. At the same time, the university acknowledges that reporting obligations might not apply to certain members of the university community, those obligations might not have applied at the time of the misconduct, or there might have been compelling reasons for a delayed report.

C. To encourage reports of misconduct, ensure response to all allegations regardless of when the alleged misconduct occurred, ensure fair proceedings, and appropriately address issues with ongoing impacts on the university environment, the university will respond to reports of misconduct as follows:

1. The university will assess all allegations of misconduct involving members of the university community, regardless of when the alleged misconduct occurred.

2. Regardless of when the alleged misconduct occurred, the university will appropriately address ongoing risks to individuals and impacts on the safety and inclusivity of the university environment, as well as impacts on current university operations.

3. If the alleged misconduct occurred three or fewer years before a report is made, the university will process the complaint and conduct a formal investigation if appropriate.

4. If the alleged misconduct occurred more than three years before a report is made, the university will not conduct a formal administrative investigation, except as provided in this policy and accompanying regulations.

a. In such cases the president or designee shall assess ongoing risks to individuals, impacts on the safety and inclusivity of the university environment, impacts on current university operations, as well as other appropriate factors (such as ability to provide due process), and may determine, in his or her sole discretion, that it is in the best interests of the university community to conduct a formal administrative investigation.

b. If the president or designee determines that a formal administrative investigation is in the best interests of the university community, an investigation shall be conducted pursuant to Regents' Policy and University Regulation.

D. This policy does not alter obligations under other provisions of law, Regents' Policy, or University Regulation to report or respond to misconduct, or limit the university's ability to pursue administrative, civil, or criminal remedies in appropriate cases.

RO1.02.025. Discrimination.

A. Prohibition Against Discrimination

1. Discrimination is a form of misconduct which undermines the integrity of the working and learning environment and will not be tolerated on or at University of Alaska premises or functions.

2. Subject to the constraints of Regents' Policy, the broadest range of legally permissible speech and expression will be tolerated in the learning environment, student and scholarly publications, and at public forums open to public debate and the exchange of ideas.

B. Definitions

1. "Advisors" are defined as individuals appointed from each MAU to advise individuals regarding discrimination, provide information on whom to contact to file a formal complaint, and outline alternatives for complaint resolution. The president and the chancellors or their designees will appoint and make available a list of university personnel to serve as discrimination prevention advisors for individuals with questions or complaints involving discrimination. Advisors must have knowledge of applicable law and Regents' Policy and University Regulation.

2. "Affirmative Action Officer" refers to the regional affirmative action director or designee.

3. "Discrimination" refers to being adversely treated or affected, either intentionally or unintentionally, in a manner that unlawfully differentiates or makes distinctions on the basis of an individual's legally protected status or on some basis other than an individual's qualifications, abilities, and performance, as appropriate.

4. "Investigator(s)" are defined as the person or persons who have the responsibility and authority to conduct an investigation of formal discrimination complaints.

5. "Learning Environment" is defined as the premises of the University of Alaska system or any site where educational programs and activities are conducted in the name of the University of Alaska or any unit thereof.

6. "Regional Personnel Officer" refers to the regional human resource or personnel director or manager or designee.

7. "Working Environment" is defined as any place where the business of the university is conducted in the name of the University of Alaska or any unit thereof.

C. Roles and Responsibilities

1. The university administration is responsible for promoting a positive working and learning environment where all persons are free to discuss any problems or questions they may have concerning discrimination at the university, without fear of intimidation or reprisal.

2. All university employees are responsible for maintaining a positive working and learning environment. Supervisors and faculty will promptly respond to complaints of discrimination to determine what, if any, remedial action may be warranted. In resolving these complaints, supervisors and faculty will seek advice and guidance from the affirmative action officer or advisors. University employees and students must cooperate fully with efforts to resolve complaints brought to their attention.

D. Informal Resolution Process: The purpose of informal resolution is to educate and inform individuals of their offensive behavior and to allow individuals the opportunity to voluntarily correct inappropriate behavior without disciplinary action. Informal resolution will not generally have as an outcome written reports or sanctions.

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1. A complainant generally should try to inform the person directly that his or her behavior is unwelcome, harmful or offensive. The complainant is also encouraged to request assistance from other university employees (supervisors), regional personnel officers, advisors or affirmative action officers in the informal resolution of a complaint. These assistants will promptly attempt to resolve the complaint through consultation and guidance of the complainant or, as appropriate, mediation between all concerned parties. Successful resolution efforts will be greatly facilitated by the timely reporting and handling of complaints.

2. Informal resolution may include informing the person about the behavior and/or writing a letter concerning the behavior and requesting that the behavior be stopped.

3. If informal resolution efforts fail to achieve satisfactory results, or if informal resolution is inappropriate in consideration of the circumstances or the egregious nature of the alleged behavior, the complainant may file a formal complaint with the affirmative action officer or the regional personnel officer as the initial action.

E. Formal Resolution Process: The formal resolution process is an administrative remedy which requires an investigation and written findings. One or two investigators will be designated to conduct a timely investigation to ensure an objective review of the allegations. The statements of the complainant, respondent and witnesses become part of a written record which will be used for administrative review and action as necessary.

1. Formal complaints alleging discrimination must include the following information:

a. The names of the respondent and complainant.

b. Their affiliation to the university.

c. A description of the offensive behavior and circumstances.

2. A formal complaint should also include the following information:

- . A description of any attempts to resolve the problem informally.

- a. An explanation of the impact on the complainant.

- b. Specific remedies requested.

3. The investigator(s), in determining whether the alleged conduct constitutes discrimination, must give consideration, to the record as a whole, to the totality of the circumstances, and where applicable to regulatory guidelines.

4. A copy of the written findings will be distributed to the complainant, the respondent, the respondent's supervisor, the regional personnel officer, the office of General Counsel and the Statewide Office of Human Resources.

5. Any person who:

- . commits discrimination; or

- a. fails to perform his or her investigatory or supervisory responsibilities; or

- b. makes false claims or provides false testimony against another will be subject to appropriate disciplinary action including, but not limited to, verbal and written reprimands, probation, suspension or termination.

6. The standard of proof in any investigation shall be the preponderance of the evidence. When a preponderance of the evidence is found to substantiate a complaint, disciplinary action may be taken. In determining what disciplinary action may be appropriate, the extent to which the respondent knew or reasonably should have known that his or her conduct was harmful or offensive will be 8 01.02 General Provisions considered. Sanctions for conduct will be based upon all facts and circumstances of each case.

7. A complainant or respondent who disputes the written findings of the investigation report may request a formal review of the findings within 5 working days of the release of the findings. Such formal review will be conducted by one or more trained individuals appointed by the chancellor or, in the case of statewide employees, the president. The purpose of this review is to provide an opportunity for the chancellor or president to obtain an objective review of the investigation findings when those findings are disputed by one of the involved parties. The review will be scheduled as soon as practicable and the written recommendation resulting from the review will be forwarded to the chancellor, or in the case of a statewide employee, to the president for a decision.

8. If a party is dissatisfied with a chancellor's decision, that party may request a discretionary review by the president within 5 working days of the decision. If the president elects to review a chancellor's decision, the president's decision will be the final decision of the university. If the president does not elect to accept a review within 15 working days, the decision of the chancellor then becomes the final decision of the university. In the case of Statewide Administration employees, the decision of the president is the final decision of the university. In either case, the final decision of the university is not grievable except as set forth in this regulation and is subject to appeal within 30 days pursuant to Alaska Appellate Rule 602(a)(2).

F. Identity of Complainant: Whenever formal disciplinary action may be contemplated, alleged offenders will be advised of the identity of their accusers, the nature of the charges being brought against them, and the circumstances of the alleged offense(s).

G. Confidentiality: Investigators will make reasonable efforts to preserve the privacy of their investigation and resolution efforts but cannot guarantee anonymity to complaining parties or witnesses. University employees and students will make a reasonable effort to protect the legitimate privacy interests of all concerned parties.

H. Retaliation

1. All persons have the right to complain about any conduct which they reasonably believe constitutes discrimination. No university official may take disciplinary or other adverse action against a person who genuinely but mistakenly believes himself or herself to be discriminated against, even if the practices complained of do not, in fact, constitute discrimination.

2. Threats or other forms of intimidation or retaliation against complainants, respondents, witnesses or investigators will constitute a violation of this regulation and may be subject to separate administrative action, including termination for cause.

I. Bargaining Unit Employees

1. If disciplinary action may result from an investigation of a bargaining unit employee alleged to have engaged in discrimination, the employee has a right to union representation during an investigatory interview with the employee. If a union representative is present for the investigation of a bargaining unit employee, the union representative will also receive a copy of the written findings of the investigation.

2. Bargaining unit employees who have been disciplined pursuant to this regulation must resolve their disputes through the dispute resolution processes provided in their collective bargaining agreement. Copies of written documentation of disciplinary action taken will be provided to their union representative.

J. Training programs on discrimination will be designed to:

1. Provide employees with current information on federal and state law, Regents' Policy, University Regulation, and administrative procedures; and

2. Demonstrate appropriate techniques for the resolution of discrimination allegations.

K. Dissemination: The university administration will make reasonable efforts to inform members of the university community regarding the prohibition against discriminating conduct. In particular, this information will be communicated to new employees as an integral part of their orientation experience.

Chapter 01.04 – Sex and Gender-Based Discrimination Under Title IX

The Board of Regents of the University of Alaska System affirms its commitment to educational programs and activities that are free of discrimination on the basis of sex and gender. Inquiries about the application of Title IX should be referred to the university's Title IX coordinator, the Assistant U.S. Secretary for Education, or both.

The board further affirms its commitment to respond appropriately to sexual harassment and sexual violence, in accordance with applicable law as amended from time to time, including Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act, Title VII of the Civil Rights Act of 1964 (which prohibits discrimination on the basis of sex in employment), Alaska Statute 18.80, and due process of law.

Except as explicitly stated otherwise, the provisions of this chapter are applicable only to matters addressed under Title IX of the Education

Amendments of 1972 and supersede other provisions of Regents' Policy and University Regulation with respect to those matters. Sex and gender discrimination under Title VII, Alaska Statute 18.80, or other applicable authority will be addressed under Board of Regents' Chapter 01.02 or 09.02 as appropriate.

1. Chancellors will have primary responsibility for maintaining educational programs and activities free from discrimination of all kinds, including discrimination based on sex or gender, and for appropriate and timely response to sexual harassment and sexual violence at their respective universities, including extended sites;
2. Chancellors will provide updates to the board regarding compliance with this chapter at least bi-annually in December and June and more often as required by circumstances; and
3. The president will ensure system oversight and coordination among the universities in implementing this chapter.

P01.04.010. Sex and Gender-Based Discrimination.

A. For purposes of this chapter "Sexual harassment" is a form of sex or gender-based discrimination, and is defined as conduct on the basis of sex or gender that satisfies one or more of the following:

1. A university employee, agent, or contractor conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity; or
3. "Sexual assault," "dating violence," "domestic violence," or "stalking" as defined in regulation.

University Regulation 01.04.010 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#R0104010>) further defines conduct constituting sexual harassment and sex and gender-based discrimination.

(08-14-20)

P01.04.020. Definition of Complainant and Respondent.

A. A complainant is an individual who is reported to be the victim of conduct that could constitute sex or gender-based discrimination.

B. A respondent is an individual who is reported to be the perpetrator of conduct that could constitute sex or gender-based discrimination.

(08-14-20)

P01.04.030. Jurisdiction Over Complaints.

Complaints, whether formal or informal, will only be pursued under this chapter if they:

- A. Involve conduct occurring within the university's education programs or activities;
- B. Involve a complainant participating or attempting to participate in the university's education program or activity at the time the complaint is filed;
- C. Involve a respondent participating or attempting to participate in the university's education program or activity; and D. Involve conduct occurring within the United States.

(08-14-20)

P01.04.040. Title IX Coordinator.

A. Each of the three separately accredited universities within the university system—UAA, UAF, and UAS will have a Title IX coordinator. Each university's Title IX coordinator is responsible for the university's compliance with Title IX of the Education Amendments of 1972. Statewide employees are served by the Title IX coordinator in their geographic location.

B. The Title IX coordinator will coordinate with disability services and other inclusivity professionals as appropriate to ensure that reasonable accommodations are made available to parties and participants with disabilities.

(08-14-20)

P01.04.050. Confidentiality and Privacy.

Issues of privacy and confidentiality play important roles in this chapter and may affect individuals differently. Privacy and confidentiality are related but distinct terms that are defined below. In some circumstances, the reporting responsibilities of university employees, or the university's responsibility to investigate, may conflict with the preferences of the complainant or respondent with regard to privacy and confidentiality. Therefore, all individuals are encouraged to familiarize themselves with their options and responsibilities.

A. "Confidentiality" refers to the circumstances under which information will or will not be disclosed to others. The university makes available several professionals, identified in University Regulations, who have legal confidentiality obligations. Conversations with these professionals are privileged. Information that an individual shares with them (including information about whether an individual has received services) will be disclosed to the Title IX staff or any other person only with the express written permission from the individual whose information will be disclosed, unless there is an imminent threat of serious harm to the individual or to others, or other legal obligation to reveal such information (e.g., if there is suspected abuse or neglect of a minor).

B. "Privacy" refers to the discretion that will be exercised by the university in the course of any investigation or disciplinary process under this chapter. In all actions taken under this chapter, the university will take into consideration the privacy of the parties to the extent possible. In cases involving students, the Title IX staff may notify other university employees of the existence of the complaint for the purpose of implementing supportive measures. The university may issue a "timely warning" to the community regarding the incident when it poses an imminent threat, as required by the Clery Act. In such situations, the university will issue a warning in a way that protects the parties' privacy to the greatest degree practicable. While not bound by confidentiality, Title IX staff will be discreet and will respect the privacy of those involved in the process. However, all parties should be aware that the university is a public institution subject to the Alaska Public Records Act and to requests for information in the course of litigation; as such, even records that are treated privately may become public.

(08-14-20)

P01.04.060. Filing a Complaint or Report.

A. All members of the university community are encouraged to report any suspected sex or gender-based discrimination to the Title IX coordinator.

B. Formal Complaint: A "formal complaint" must meet the following requirements:

1. It must be a physically or electronically signed document;

2. It must allege sexual harassment committed by a person participating or attempting to participate in the university's education program or activity, as defined in 01.04.010 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#P0104010>); and

3. It must request an investigation into the harassment. Further information regarding formal complaints is provided in University Regulation 01.04.060 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#R0104060>).

C. There is no time limit on reporting sex or gender-based discrimination. However, because of jurisdictional limitations on when a complaint may be processed under this chapter, individuals who learn of sex or gender-based discrimination are encouraged to report it promptly, regardless of when it occurred.

D. "Responsible employees" must report any sex or gender-based discrimination, regardless of who it involves, and regardless of the type of allegations, to the Title IX coordinator within twenty-four hours. All University of Alaska staff, faculty and residence life student employees are designated "responsible employees," with the limited exception of licensed professional mental health counselors, clergy, other persons with a professional license requiring confidentiality who are working within that license, and those employees who work in the student health and counseling centers. Student employees, with the exception of those working for residence life, are not designated responsible employees at the University of Alaska.

E. The university strongly encourages students to report any sex or gender-based discrimination. Consequently, the university will provide amnesty for conduct that would warrant minor sanctions under the Student Code of Conduct, such as underage drinking or prohibited drug use, that is related to misconduct reported under this sex and gender-based discrimination chapter. Students granted amnesty may still be required to complete educational programs, and a pattern of amnesty requests can result in a decision by the student conduct administrator not to extend amnesty to the same person repeatedly.

F. Alleged violations of federal, state, or local laws may also violate this sex and genderbased discrimination policy. The university reserves its right to pursue formal complaints and the grievance process under this chapter as well as other action in response to potential sex and gender-based discrimination, independent of criminal or other proceedings. University proceedings under this sex and gender-based discrimination chapter may precede, follow, or take place simultaneously with any other university or non-university proceedings. University actions will not be subject to challenge on the grounds that a non-university proceeding, including criminal charges, involving the same incident has been dismissed, reduced, settled, or otherwise resolved.

G. Nothing in this chapter precludes a Title IX coordinator from initiating an action under Regents' Policy and University Regulation 01.02.025 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-02-general-provisions.php#R0102025>) if the allegations do not meet the jurisdictional requirements of this chapter.

(11-12-21)

P01.04.070. Supportive Measures.

The university offers various supportive measures, which are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available, and without fee or charge to the complainant or respondent, before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are further described

in University Regulation 01.04.070 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#R0104070>).

(08-14-20)

P01.04.080. Notice of Allegations.

Upon receipt of a formal complaint, the university will provide written notices to the complainant and respondent explaining their rights. The contents of the written notices are described in University Regulation 01.04.060 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#R0104060>).

(08-14-20)

P01.04.090. Interim Removal of Respondent.

A. A student respondent may be removed from an education program or activity on an emergency basis, after the university has undertaken an individualized safety and risk analysis and has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. The university will immediately provide the respondent with notice regarding challenging the removal decision and will provide an opportunity to challenge the removal within a reasonable time period. The process for challenging the interim removal of a student is located in University Regulation 01.04.090 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#R0104090>).

B. An employee respondent may be placed on administrative leave during the pendency of the grievance process outlined in this chapter. If the conduct alleged also violates provisions of Board of Regents Policy or University Regulation outside of this chapter, disciplinary action up to and including termination may occur and may precede the conclusion of the grievance process. This also applies to student employees.

C. A third-party respondent may be trespassed or otherwise removed from the university's premises, programs, or activities during the pendency of this chapter's grievance process.

(08-14-20)

P01.04.100. Retaliation Prohibited Against Complainants, Respondents, and Other Participants.

A. The university prohibits retaliation (including retaliatory harassment) against individuals who report sex or gender-based discrimination or who participate in this chapter's grievance process, even if the university ultimately concludes that no sex or genderbased discrimination occurred, or who refused to participate in any manner in this chapter's grievance process. A violation of this prohibition may result in discipline.

B. Retaliation may be reported to the Title IX coordinator. If the alleged retaliation is reportedly caused by Title IX staff, the retaliation may alternately be reported to the university's chief human resources officer.

C. Complaints of retaliation prohibited by this section may be filed under this chapter's grievance procedures or the procedures described in University Regulation 01.02.025 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-02-general-provisions.php#R0102025>). If a Title IX coordinator files a complaint of retaliation for conduct prohibited by this section, the complaint will be addressed using the procedures described in University Regulation 01.02.025 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-02-general-provisions.php#R0102025>).

(11-12-21)

P01.04.110. Conflicts of Interest of Those Investigating or Adjudicating a Complaint.

A. The university does not permit actual conflicts of interest or an appearance of partiality, whether real or reasonably perceived, by those involved in handling complaints of sex or gender-based discrimination. No Title IX coordinator, investigator, decision-maker, or any person designated by the university to facilitate an informal resolution process may have a conflict of interest or bias for or against complainants or respondents generally or against an individual complainant or respondent.

B. To challenge the participation of an individual described in this section based on a conflict of interest, a complainant or respondent may file a challenge with the Title IX coordinator or, if the challenge is concerning the Title IX coordinator, the chief human resources officer or his or her designee. Either the Title IX coordinator or the chief human resources officer, as appropriate, will promptly review the challenge and decide whether the challenged individual has an actual conflict or an appearance of partiality, whether real or reasonably perceived, that prevents his or her continued involvement.

(08-14-20)

P01.04.120. Informal Resolution of the Complaint.

At any time prior to reaching a determination regarding responsibility of a formal complaint, the university may attempt or encourage an informal resolution process that does not involve a full investigation and adjudication. Informal resolution is not available in cases alleging sex or gender-based discrimination by an employee against a student. The informal resolution process is described in University Regulation 01.04.120 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#R0104120>).

(08-14-20)

P01.04.130. Mandatory and Voluntary Dismissal of Formal Complaints.

A. The Title IX coordinator shall dismiss formal complaints and end any grievance process under this chapter in matters that:

1. Do not meet the definition of sexual harassment contained in Board of Regents' Policy 01.04.010 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#P0104010>); or
2. Did not occur within the university's jurisdiction as defined in Board of Regents' Policy 01.04.030 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#P0104030>).

B. The Title IX coordinator may dismiss formal complaints and end any grievance process under this chapter if:

1. The complainant notifies the Title IX coordinator in writing that they would like to withdraw a formal complaint or any allegations it contains;
2. The respondent is no longer enrolled at or employed by the university; or
3. Specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

C. The Title IX coordinator may refer and/or re-initiate investigations of dismissed complaints under other applicable policies, including Regents' Policy 01.02 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-02-general-provisions.php>) and 09.02.

(08-14-20)

P01.04.140. Appeal of Dismissal of Formal Complaint.

The complainant and respondent each have a right to appeal a dismissal of a formal complaint or any of its allegations. Appeals of dismissals of formal complaints are described in University Regulation 01.04.140 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#R0104140>).

(08-14-20)

P01.04.150. Consolidation of Formal Complaints.

The Title IX coordinator may consolidate formal complaints. For example, a Title IX coordinator may consolidate several formal complaints of sexual harassment made by multiple complainants against one respondent, may consolidate formal complaints against multiple respondents made by one complainant, or may consolidate formal complaints where a complainant and respondent each accuse the other of misconduct. For consolidation to occur, the allegations of sex or gender-based discrimination must arise out of the same facts or circumstances and must be subject to this chapter.

(08-14-20)

P01.04.160. The Grievance Process.

The university will use the preponderance of the evidence standard during the grievance process. The respondent shall have the presumption of non-responsibility during the grievance process, meaning that they shall be presumed to not be responsible for any alleged sex or gender-based discrimination until a determination regarding responsibility is made at the conclusion of the grievance process.

A. Investigation:

1. As part of the formal resolution process, a Title IX investigator will conduct an investigation that provides an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and does not make credibility assessments based on a person's status as a complainant, respondent, or witness.

2. Investigation procedures are described in University Regulation 01.04.160. (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#R0104160>)

B. Hearing:

1. After the investigation is complete, the university will commence a hearing as part of the grievance process to determine, based on the facts developed by the investigation, whether the respondent is responsible for sex or gender-based discrimination.

2. Hearing procedures are described in University Regulation 01.04.160 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#R0104160>).

(08-14-20)

P01.04.180. Appeals of a Determination of Responsibility.

The complainant and respondent have the right to appeal a decision-maker's determination regarding responsibility. Appeal procedures are described in University Regulation 01.04.180 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php#R0104180>).

(08-14-20)

R01.04.010. Sex and Gender-Based Discrimination.

A. Prohibited Conduct

1. "Sexual harassment" is a form of sex or gender-based discrimination that can be committed by individuals of any gender, can occur between individuals of the same or different genders, can occur between individuals involved in intimate or sexual relationships, or can occur between strangers or acquaintances. It is conduct on the basis of sex or gender that satisfies one or more of the following:

a. A university employee, agent, or contractor conditioning the provision of an aid, benefit, or service of the university 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 university's education program or activity. The following are some, but not all, examples of "unwelcome conduct":

i. Consensual sexual conduct that unreasonably interferes with other employees' work or other students' studies, or creates a hostile, intimidating, or offensive working, living, or learning environment.

ii. Sexual exploitation. This occurs when a person takes nonconsensual or abusive sexual advantage of another for the person's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, including but not limited to:

1. invasion of sexual privacy, prostituting another person, nonconsensual video or audio-taping of sexual activity, going beyond the boundaries of consent (such as secretly letting others watch consensual sex), engaging in voyeurism;

2. knowingly transmitting an STI or STD to another individual without that individual's knowledge;

3. intentionally or recklessly exposing one's genitals for the purpose of sexual gratification; or

4. inducing another to expose their genitals.

c. "Sexual assault," "dating violence," "domestic violence," or "stalking" as defined in this regulation.

2. Retaliation. This occurs when a person intimidates, threatens, coerces, or discriminates against any person for the purpose of interfering with any right or privilege described in this chapter, or because the person has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this chapter.

B. Complicity. Any person who intentionally aids or facilitates an act of sexual harassment will be subject to disciplinary action under all applicable policies and/or regulations.

C. Definitions for purposes of this chapter:

1. "Coercion" is the use of pressure to compel another person to engage in any sexual activity against that person's will. Coercion may include express or implied threats of physical, emotional, or other harm. Coercion invalidates consent.

2. "Conflict of interest" exists when a reasonable person would conclude that a Title IX coordinator, Title IX investigator, decision-maker, or any person designated by the university to facilitate an informal resolution process either possesses an actual bias for or against complainants or respondents generally or has knowledge of or a personal or professional relationships with the complainant, respondent, or witnesses that could reasonably

be perceived to preclude the individual from being able to investigate or adjudicate the matter fairly and impartially.

3. "Consent" is the voluntary, informed, un-coerced agreement through words or actions freely given, that a reasonable person would interpret as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate. A person who is incapacitated cannot consent.

4. "Dating violence" is violence committed by a respondent:

a. who is or has been in a social relationship of a romantic or intimate nature with the complainant; and

b. where the existence of such a relationship shall be determined based on a consideration of the following factors:

i. The length of the relationship;

ii. The type of relationship; and

iii. The frequency of interaction between the persons involved in the relationship.

5. "Day" is defined as a day that campus is open for business Monday through Friday, even if classes are not scheduled.

6. "Decision-maker" is the individual, individuals, or office responsible for determining responsibility and, if a respondent is determined to have engaged in sex or gender-based discrimination, imposing discipline on the respondent. The decision-maker may vary depending on the respondent's university affiliation and shall be designated by the University of Alaska General Counsel or their designee.

7. "Domestic violence" includes verbal or physical assault, violating a protective order, terroristic threatening, burglary, criminal trespass, criminal mischief, harassment, arson, criminally negligent burning committed by a current or former spouse or intimate partner of the complainant, by a respondent with whom the complainant shares a child in common, by a respondent who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner or as a roommate, by a respondent similarly situated to a spouse of the complainant, or by any other respondent against an adult or youth complainant who is protected from that respondent's acts under the domestic or family violence laws of Alaska.

8. "Education Program or Activity" is defined as:

a. any activity on university property or other locations that are part of the university's operations, including any building owned or controlled by a student organization that is officially recognized by the university;

b. any behavior exhibited online or electronically via email, social media, text messaging, remote learning platforms, or other electronic means that involve the use of the university's computing and network resources, including wifi;

c. any behavior occurring during the course of a university-sponsored program or activity, such as NCAA sports, clubs, travel, fraternity and sorority functions, conferences, internships, field camps, or field research, regardless of location; and

d. any situation in which the university exercised substantial control over the respondent and the context in which the respondent's alleged behavior occurred.

9. “Employee” is a person employed in any capacity for wages or salary by the university.

10. “Exculpatory Evidence” is evidence that suggests lack of responsibility for violating university policy and regulation.

11. “Force” is the unwelcome use or threat (whether express or implied) of physical violence to compel another person to engage in any sexual activity against that person’s will. Force invalidates consent.

12. “Incapacitation” is when an individual is in a state or condition in which they are unable to make sound decisions. This can be due to sleep, age, unconsciousness, alcohol, drug use, or mental and/or other disability. For example, someone who is unable to articulate what, how, when, where, and/or with whom the person desires a sexual act to take place is incapacitated.

13. “Inculpatory Evidence” is evidence that suggests responsibility for violating university policy and regulation.

14. “Parties” is the collective reference to the complainant and respondent.

15. “Preponderance of the evidence” means it is more likely than not that alleged conduct occurred.

16. “Relevant” means evidence pertinent to proving whether facts material to the allegations are more or less likely to be true.

17. “Sex and gender-based discrimination” occurs when an individual is treated less favorably on the basis of that person’s sex or gender, which may also include on the basis of sexual orientation, gender identity or expression, pregnancy or pregnancy-related condition, or a sex stereotype. Sexual harassment is a form of this discrimination.

18. “Sexual assault” means an offense that meets any of the following definitions:

a. “Rape” is non-consensual vaginal or anal penetration, no matter how slight, of a person with any body part or object, or oral penetration by a sex organ of another person, including instances where the victim is incapable of giving consent because of their age or incapacitation.

b. “Fondling” is the non-consensual touching of the breasts, buttocks, or genitals of another person for the purpose of sexual gratification, including instances where the victim is incapable of giving consent because of their age or incapacitation. Fondling can occur over or under clothing.

c. “Incest” is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law where the act occurred.

d. “Statutory Rape” is nonforcible sexual intercourse with a person who is under the statutory age of consent as defined by law where the conduct occurred.

19. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to either fear for their safety or the safety of others; or suffer substantial emotional distress.

20. “Statement” for purposes of this chapter has its ordinary meaning, but would not include evidence such as videos, photographs, or recordings that do not constitute a person’s intent to make factual assertions or to the extent that such evidence does not contain a person’s statements.

21. “Student” for purposes of this chapter, means a person academically affiliated with the university, regardless of whether the affiliation is for academic credit or enrollments status, and includes K-12 students participating in university programs as well as dual enrollment and middle-college programs.

22. “Third party” is any individual who was not a university employee or a student at the time the alleged conduct occurred and includes volunteers.

23. “Title IX investigator” is a trained investigator who operates under the oversight of a Title IX coordinator. If necessary, a Title IX coordinator may act as a Title IX investigator, but shall not act in both capacities on the same case.

(11-13-21)

Ro1.04.060. Filing a Complaint or Report.

A. Limited Exceptions to Reporting

1. “Responsible employees” are not required to report sex or gender-based discrimination that is disclosed:

a. During public awareness events focused on sex or gender-based discrimination (such as “Take Back the Night”); or

b. By a subject, as a response to an appropriate university research compliance office (e.g. IRB, ORIC, ORI) reviewed research protocol, provided that the disclosed sex or gender-based discrimination did not occur during administration of the research protocol.

The university may provide information about individuals’ rights under Title IX and about available university and community resources and support at Public Awareness Events, however, and Institutional Review Boards may, in appropriate cases, require researchers to provide such information to all student subjects of IRB research.

B. Initiating a Complaint

1. Reports of sex or gender-based discrimination can be submitted to a Title IX coordinator in person, by email, in writing, or by telephone to the contacts above. Anonymous, informal, or unsigned complaints or reports are permitted, but they may not initiate the university’s grievance process and significantly limit the Title IX staff’s ability to investigate and provide supportive measures.

o UAA Title IX Coordinator
3190 Alumni Drive, Suite 352,
Anchorage, AK 99508
uaa_titleix@alaska.edu
907-786-0818
www.uaa.alaska.edu/about/equity-and-compliance/ (https://
www.uaa.alaska.edu/about/equity-and-compliance/)

o UAF Title IX Coordinator
1692 Tok Lane, 3rd Floor Constitution Hall,
Fairbanks, AK 99775
uaf-tix@alaska.edu
907-474-7300
www.uaf.edu/equity/ (https://www.uaf.edu/equity/)

o UAS Title IX Coordinator
11066 Auke Lake Way, Novatney Building Room 103,
Juneau, AK 99801
uas.titleix@alaska.edu
907-796-6371

www.uas.alaska.edu/titleix/ (<https://www.uas.alaska.edu/titleix/>)

2. If the allegations relate to a respondent who is a member of the Title IX staff, the report may be submitted to the chief human resources officer:

o Chief Human Resources Officer
3890 University Lake Drive
University Lake Building Suite 101
Anchorage, AK 99508
907-786-1419

3. A formal complaint is a written document that alleges sexual harassment as defined in P01.04.010 and is signed, physically in writing or electronically through email, by one of the following:

- . the complainant;
- a. the parent or guardian of a minor complainant, or where the parent or guardian has an appropriately structured power of attorney, (if a parent or guardian has an appropriately structured power of attorney, the parent or guardian does not become the "complainant" but may file a complaint on behalf of the complainant); or
- b. the Title IX coordinator on behalf of the complainant. If a Title IX coordinator signs as a complainant on a party's behalf, the reported "victim" remains the "complainant" and will be treated as the party filing the complaint.

C. Notice of Allegations

Upon the filing of a formal complaint, the Title IX coordinator will provide the parties with:

1. Notice of the university's grievance process as provided in this chapter;
2. Notice of the allegations potentially constituting sexual harassment, as defined in this chapter, including sufficient details and with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - . the identities of the parties involved in the incident, if known;
 - a. the conduct allegedly constituting sexual harassment; and
 - b. the date and location of the alleged incident or incidents, if known;
3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
4. Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney. The notice will request that the parties inform the Title IX coordinator if they want the university to supply an advisor;
5. Notice that the complainant and respondent may inspect and review evidence collected in the course of any investigation;
6. Notice that misrepresenting the truth during a university investigation and/or making false statements to any university official or office is a violation of the Student Code of Conduct for students under University Regulation 09.02.020(2)(b) and is subject to Corrective Action for employees under University Policy 04.07.040; and
7. Notice of the range of possible disciplinary sanctions and remedies. If, in the course of an investigation, the university decides to investigate allegations about the complainant or respondent that are not included in the

notice provided, the Title IX coordinator will provide notice of the additional allegations.

(03-04-22)

R01.04.070. Supportive Measures.

A. The Title IX coordinator will inform the complainant and respondent in writing of the availability of reasonable and appropriate supportive measures. Supportive measures are available with or without filing a formal complaint and may include but are not limited to:

1. Providing access to counseling services and assistance in arranging an initial appointment;
2. Providing access to confidential advocacy services and assistance in arranging an initial appointment;
3. Rescheduling of exams and assignments;
4. Changing class schedules;
5. Providing access to academic advising services;
6. Changing university work schedule or job assignment;
7. Changing campus housing;
8. Authorizing tuition, housing, or other fee refunds;
9. Providing access to medical services;
10. Imposing an on-campus "no contact order," an administrative remedy designed to stop contact and communications between two or more individuals;
11. Making transportation arrangements;
12. Increased security and monitoring of certain areas of the campus;
13. Providing any other measure that can be used to achieve the goals of this sex and gender-based discrimination policy.

B. Parties may request to change supportive measures at any time by submitting the request to the Title IX coordinator. Supportive measures affecting the respondent may be restrictive but not punitive and will reflect the relevant circumstances.

C. Supportive measures will be kept private to the degree that maintaining such privacy will not impair the university's ability to provide them.

(08-14-20)

R01.04.090. Challenging an Interim Removal of Respondent.

A. A student respondent removed from an educational program or activity through an interim removal may challenge their removal. The challenge must be submitted in writing to the chancellor and explain:

1. why their removal is inappropriate or no longer necessary,
2. what material facts, if any, are disputed,
3. the impacts of removal on the respondent, and
4. less disruptive alternatives, such as on-line classes, geographic restrictions, or off-campus housing, that can be used to keep the respondent in the educational program or activity without disrupting the complainant's participation.

B. The chancellor, or their designee, will review the challenge and any relevant information and decide whether any change to the respondent's removal is warranted or whether less restrictive conditions could reasonably be imposed. Barring extenuating circumstances, the chancellor or their designee will respond to a challenge in writing within five days.

(08-14-20)

Ro1.04.120. Informal Resolution of a Formal Complaint.

A. After a formal complaint has been filed any time prior to reaching a determination regarding responsibility, the parties may decide to resolve a formal complaint through informal resolution such as mediation, training, restorative justice, developmental opportunities, and apologies. Requests to engage in informal resolution may be made by either the complainant or respondent or may be suggested by Title IX staff. Both parties must agree to informal resolution in writing. If it becomes necessary to extend the process due to the parties' use of informal resolution, both parties will be notified of a revised expected resolution timeframe.

B. Any informal resolution process will provide the complainant and respondent:

1. The allegations;
2. The requirements of the informal resolution process, including circumstances under which it precludes the parties from resuming a formal complaint from the same facts and circumstances forming the basis of allegations;
3. Notice that at any time prior to agreeing to a resolution, any party or the university has the right to withdraw from and end the informal resolution process and resume the grievance process with respect to the formal complaint;

C. The campus Title IX coordinator, or their designee, shall offer and implement any informal resolution. The Title IX coordinator's decisions regarding how informal resolution will be implemented are final and not subject to appeal.

(08-14-20)

Ro1.04.140. Appeal of a Dismissal of a Formal Complaint.

A. An appeal of a dismissal of a formal complaint must be based on:

1. A procedural irregularity that affected the dismissal decision;
2. New evidence that was not reasonably available at the time the dismissal decision was made and that could affect the outcome of the matter; or
3. The Title IX coordinator had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent and it affected the dismissal decision.

B. To appeal the dismissal of a formal complaint, within 5 days of receipt of the dismissal, a complainant or respondent must submit a written appeal to the chancellor or, in the case of statewide employees, to the president. The president, chancellor, or their designee will review the appeal and render a prompt, written decision either upholding the dismissal, overturning it and sending it back to the Title IX coordinator for further investigation, overturning it and sending it to a different Title IX coordinator if a conflict exists, or seeking more information.

(08-14-20)

Ro1.04.160. Grievance Process.

A. Time Frames

1. A reasonably prompt timeframe for conclusion of the grievance process, including time for filing and resolving appeals and participation in any informal resolution processes, is defined as 180 days. This timeframe allows for a temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the parties. Notice of any significant delay or extension will include the reasons for the delay. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; employee turnover; extreme weather or natural disasters; campus closures; serious personal emergencies such as a death in a party's family; or the need for language assistance or accommodation of disabilities.

B. Advisors

1. A party may have an advisor assist them throughout the entire grievance process if they so choose, but must designate a single advisor and may not be simultaneously represented by multiple advisors.
2. Each party has a right to have an advisor to assist them through the grievance process's hearing. The advisor may be a friend, relative, student, faculty or staff member, advocacy organization staff member or volunteer, union representative, or attorney. Any cost associated with the party's advisor of choice is the party's responsibility. A witness in the grievance process may also be an advisor, and any perceived "conflict of interest" will be taken into account by the decisionmaker.
3. A party who has an advisor must notify the university in writing of their advisor's identity and contact information. If the party changes advisors, the party must notify the university and provide new contact information.
4. The university expects advisors to conduct themselves with decorum and candor towards the decision-maker, parties, and participants. Specifically, advisors may not act in an abusive, intimidating, or disrespectful manner towards the decisionmaker or any party or participant in the grievance process. Advisors who fail to meet this standard will be removed from hearings.

5. If a party does not have an advisor at the time that the Title IX investigator's report is released, the Title IX coordinator or designee will appoint one to conduct cross-examination on behalf of that party at the hearing. Appointment of an advisor will take place at least 10 days prior to any hearing. Decisions regarding the appointment of advisors are not subject to challenge or appeal.

C. Investigation Process

1. Investigations will be conducted by a Title IX investigator. The Title IX investigator will ensure that the burden of proof and the burden of gathering evidence rests on the university and not on the complainant or the respondent. The Title IX investigator will engage in an objective evaluation of all relevant evidence. The investigator will determine the relevance of any information. Neither state nor federal rules of evidence apply in the investigation or any related proceeding, including appeals.

2. In general, the investigator will not consider statements of personal opinion or statements as to any party's general reputation, particularly regarding their sexual history, unless the statements are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if they concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

3. Credibility determinations may be made but will not be based on a person's status as a complainant, respondent, or witness.

4. The Title IX investigator will provide an equal opportunity for the parties to offer witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The university will not bear any cost associated with witness fees, travel, or expenses.

5. The Title IX investigator will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, except to the extent that a "no contact" order is in place. If a "no contact" order is in place prohibiting the individuals subject to the order from contact and it is necessary for one party or their advisor to contact the other party to discuss the allegations under investigation or to gather and present relevant evidence, prior arrangements must be made with the Title IX investigator. Such contact may not be used to threaten or intimidate a party, and threats or intimidation may result in discipline.

6. The Title IX investigator will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, and not limit the choice or presence of an advisor for either the complainant or respondent in any related meeting or proceeding. If the respondent is a bargaining unit employee, the employee has a right to union representation during any investigatory interview with the employee. If a union representative is present for a bargaining unit employee's interview, the union representative will also receive a copy of the written findings of the investigation. Findings will also be provided to the relevant union if required by the collective bargaining agreement.

7. The Title IX investigator will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare for their participation.

8. The Title IX investigator will provide the parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the university does not intend to rely in reaching a determination regarding responsibility. This includes any inculpatory or exculpatory evidence, whether obtained from a party or other source.

9. Prior to completion of the investigative report, the Title IX coordinator will simultaneously send to each party and the party's advisor, if any, all evidence directly related to the complaint, including the evidence upon which the university does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source. Evidence collected that is not directly related to the complaint may be withheld or redacted.

10. Evidence will be subject to inspection and review in an electronic format or a hard copy, and the parties will have at least 10 days to submit a written response to the evidence, which the investigator will consider prior to completion of the investigative report. The Title IX coordinator may require that the parties and their advisors, if any, sign a non-disclosure agreement prior to any release of information under this provision that limits disclosure to those with a legitimate need to know and prohibits dissemination of private or confidential material.

11. The Title IX investigator will write an investigative report that does not make a finding but fairly summarizes relevant evidence, makes relevant credibility assessments, and considers each party's written response to the evidence and, at least 10 days prior to a hearing, send to each party and the

party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

D. Hearings

1. Once the Title IX investigator distributes the investigative report to the complainant and respondent, the university's Office of General Counsel will timely appoint a decision-maker to conduct a hearing. The decision-maker will not be the campus Title IX coordinator or investigator, but may be a Title IX coordinator or investigator from another campus or any other qualified person.

2. The hearing will be live and may be conducted with all parties physically present in the same geographic location or, at the university's discretion or a party's request, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants to simultaneously see and hear each other.

3. Hearings will last no longer than two business days. The university, complainant, or respondent may request additional time, but hearings will only be extended at the decision-maker's discretion. A party may request a one day delay of the hearing if their advisor fails to appear and a Title IX coordinator may delay the hearing a reasonable amount of time in the event that either party's advisor fails to appear.

4. Non-party attendance at the hearing is within the decision-maker's discretion, and the decision-maker may exclude any and all persons from the hearing other than the university's representatives, the parties, their advisors, a union representative, if applicable, and other individuals as required by law. With the exception of advisors if they are also witnesses, any person that a party intends to call as a witness may not be present in the hearing, except while testifying, until after their testimony is concluded.

5. The decision-maker may allow the university, complainant, and respondent (or their advisor) to make a brief opening statement. No party shall be compelled to make an opening statement.

6. The decision-maker may, at the decision-maker's discretion, ask questions during the hearing of any party or witness and may be the first person to ask questions of any party or witness. A party has no obligation to respond to questions from the decision-maker, and no inference may be drawn from such a refusal.

7. The Title IX investigator will present the relevant evidence gathered during the investigation, including, but not limited to, witness testimony, photographs, video, digital or audio recordings, and physical evidence.

8. The decision-maker will allow each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

9. An advisor may only ask relevant cross-examination questions of a party or witness. Before a complainant, respondent, or witness responds to a cross-examination or any other question, the decision-maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The decision-maker will not use rules of evidence other than rules of relevance in deciding to include or exclude evidence.

a. The decision-maker may require questions to be submitted prior to the hearing so their relevance can be determined, and the parties may submit their questions prior to the hearing so that relevance can be pre-established.

b. A party's advisor may object to a question's relevance once. Once the decision-maker determines to include or exclude the question, no further objection may be made.

c. If a party or witness disagrees with the decision-maker's relevance determination, they have the choice of either abiding by the decisionmaker's determination and answering the question or refusing to answer the question.

10. Each party's advisor may cross-examine each witness once, unless the decisionmaker allows a second round of cross-examination based upon good cause.

11. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

12. Responses to Cross-Examination:

a. The decision-maker may consider statements made by parties or witnesses that are otherwise permitted under the regulations, regardless of whether the statement is subject to cross-examination.

b. The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

13. If a complainant or respondent chooses not to attend the hearing, their advisor may nonetheless appear and conduct cross-examination. If both a party and their advisor fail to attend the hearing, the Title IX coordinator will appoint an advisor to represent the missing party's interests.

14. Neither party's medical, psychological, and similar records will be submitted as evidence or considered by the decision-maker unless that party has given voluntary, written consent.

15. The complainant and respondent may each call witnesses not presented by the investigator, and each party's advisor will have the opportunity to cross-examine any witnesses called. No party shall be able to compel witness testimony.

16. The decision-maker may allow the university, complainant, and respondent (or their advisor) to make a brief closing statement. No party shall be compelled to make a closing statement.

17. The decision-maker will create an audio or audiovisual recording, or transcript, of the live hearing and will provide it to the Title IX coordinator upon the hearing's completion. The Title IX office will retain copies of the audio or audiovisual recording, or transcript, of the live hearing and make it available to the parties for inspection and review. No party shall have a right to be provided a copy of the record.

18. The decision-maker must issue a written determination regarding responsibility using the preponderance of the evidence standard within 30 days, and this deadline may be extended for good cause with written notice to both parties. If there is a finding of responsibility, the determination must address appropriate discipline and remedies.

19. The authority to suspend or expel a respondent under this chapter is hereby delegated to the decision-maker by the president of the university. The decisionmaker may not re-delegate this authority.

20. The written determination regarding responsibility must be provided to the parties simultaneously and must include:

a. Identification of the allegations potentially constituting sex or gender-based discrimination as defined in this chapter;

b. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, each party's evidence review, and hearings held;

c. Findings of fact supporting the determination;

d. Conclusions regarding the application of this chapter to the facts, including a statement of, and rationale for, the result as to each allegation and a determination regarding responsibility or non-responsibility;

e. Any disciplinary sanctions the university imposes on the respondent and the date sanctions take effect, absent any appeal;

f. Whether remedies designed to restore or preserve equal access to the university's education program or activity will be provided by the university to the complainant, along with the remedies to be provided; and

g. The university's procedures and permissible bases for the complainant and respondent to appeal.

21. The range of possible sanctions for students are:

a. Letter of Expectations. A letter of expectations indicates the deficiencies in a student's conduct and the standards a student is expected to meet.

b. Disciplinary Probation. Disciplinary probation is a written warning that includes the probability of more severe disciplinary sanctions if the student is found to engage in specified conduct during a specified period of time (the probationary period).

c. Denial of Benefits. Specific benefits may be denied a respondent for a designated period of time.

d. Restitution. A respondent may be required to reimburse the university or other victims related to the misconduct for damage to or misappropriation of property, or for reasonable expenses incurred.

e. Discretionary Sanction. Discretionary sanctions include community service work or other uncompensated labor, educational classes, research papers, reflective essays, counseling, or other sanctions appropriate. Costs incurred by the respondent in fulfilling a discretionary sanction will typically be the responsibility of the respondent.

f. Restricted Access. A respondent may be restricted from entering certain designated areas and/or facilities or from using specific equipment for a specified period of time.

g. Suspension. Suspension is the separation of the respondent from the university for a specified period of time, after which the respondent may be eligible to return. Conditions under which the suspension may be removed and for re-enrollment can be found at University Regulation 09.02. During the period of suspension, the respondent may be prohibited from participation in any activity sponsored or authorized by the university and may be barred from all property owned or controlled by the university, except as stated on the notification.

h. Expulsion. Expulsion is the permanent separation of the respondent from the university. The respondent may be prohibited from participation in any activity sponsored or authorized by the university and may be barred from

property owned or controlled by the university except as stated on the notice of expulsion.

i. Revocation of a Degree. Any degree previously conferred by the university may be revoked if the student is found to have committed academic misconduct in pursuit of that degree, such as an education student who sexually harasses a minor K-12 student during a teaching internship or a nursing student who sexually harasses a patient during an externship placement.

j. The conditions, if any, for re-enrollment and reinstatement of university benefits lost through imposition of a sanction will depend upon the disciplinary sanctions imposed and will be specified in the determination. The authority to reinstate a respondent following a suspension or expulsion under this chapter is hereby delegated to the chancellors by the president of the University of Alaska. Chancellors may not re-delegate this authority. Any respondent who is reinstated will be on university disciplinary probation for a minimum of one year from the date of re-enrollment.

22. The range of possible sanctions for employees are:

- a. Written Reprimand. The written reprimand will be placed in the respondent's official personnel file.
- b. Disciplinary Probation. A respondent may be placed on disciplinary probation for a period not exceeding six months. Failure to meet the disciplinary performance standards or employment conditions may result in termination of employment for cause.
- c. Suspension. A respondent may be suspended without pay for not more than 10 working days. A suspended respondent will not receive holidays, wages, sick or annual leave accrual or other benefits based on hours worked during the leave period, but will continue to be covered by the applicable group insurance program.
- d. Termination for Cause. A respondent may be terminated from employment for cause.

23. For third-party respondents, sanctions may include, but are not limited to, temporary or permanent bans from university property, employment, educational programs, and activities.

(11-13-21)

RO1.04.170. Remedies.

A. A. If the grievance process results in a finding of responsibility, the Title IX coordinator is responsible for effective implementation of any remedies imposed by the decision-maker.

1. When a respondent is found to have engaged in sex or gender-based discrimination, the university will take prompt and effective steps to restore or preserve equal access to the university's education program or activity.
2. Remedial efforts may include, but are not limited to, making permanent any supportive measures imposed, or otherwise taking any action identified in the regulations governing supportive measures. Remedies may be disciplinary or punitive to the respondent and need not avoid burdening the respondent.

(08-14-20)

RO1.04.180. Appeals of Determination of Responsibility.

A. Students, non-affiliated parties, and non-bargaining unit employees: The complainant and respondent each have a right to appeal a determination regarding responsibility.

1. An appeal must be based on:

- a. A procedural irregularity that materially affected the outcome of the matter, including a decision-maker's determination regarding relevance;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could materially affect the outcome of the matter; or
- c. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that materially affected the outcome of the matter.

2. To appeal, a complainant or respondent must submit a written request to appeal, within 5 days of receipt of the determination regarding responsibility, to their campus chancellor. (Statewide employees must file their appeal with the president of the University of Alaska). Upon receipt of a request to appeal a decision under this chapter, the chancellor or president shall allow the complainant and respondent to have 15 days to submit a written statement in support of, or challenging, the outcome, but no party is obligated to submit a statement, nor shall a party's decision not to file a statement be held against them. The chancellor or president may consider the grievance process record and take such action as the chancellor or president deems appropriate. The chancellor or president will issue a written decision describing the result of the appeal and the rationale for the result and will provide the decision to the complainant and respondent simultaneously.

B. Bargaining unit employees who have been found responsible and disciplined pursuant to this sex and gender-based discrimination chapter must resolve any dispute regarding the responsibility findings or discipline through the dispute resolution processes provided in their collective bargaining agreement.

(08-14-20)

RO1.04.190. Appeal to Superior Court of Final Determinations Issued Under this Chapter Pursuant to Alaska Appellate Rule 602(a).

A. The university's determination regarding responsibility becomes final either:

1. If an appeal is filed, on the date that the university provides the parties with the written determination of the result of the appeal; or
2. If an appeal is not timely filed, on the date the determination was distributed.

B. A final decision issued under this chapter may be subject to appeal to the superior court for the State of Alaska. Any appeal must be filed within 30 calendar days of the date on which the final university decision was distributed.

(08-14-20)

Chapter 04.07 – Employee Relations [Excerpt] **PO4.07.040. Corrective Action.**

A. Supervisors will apply necessary and appropriate corrective action whenever an employee fails to meet the required standards of conduct or performance. Corrective action may be necessary because of employment related problems, including but not limited to: inattention to duty, unsatisfactory performance, insubordination, absenteeism, violation of law, Regents' Policy, or University Regulation, dishonesty, theft or misappropriation of public funds or property, inability to work effectively

with others, fighting on the job, acts endangering others, inappropriate behavior toward or harassment of others, bullying or other misconduct.

B. Corrective actions may include: formal discussion, written communications detailing performance and behavior standards and expectations, written reprimands, which are sent to the official personnel file, disciplinary probation, suspension, dismissal, or any reasonable combination of these or other actions.

(09-19-14)

Chapter 09.02 – Student Rights and Responsibilities

09.02.010. General Statement: Student Rights and Responsibilities.

A. The university will maintain an academic environment in which the freedom to teach, conduct research, learn, and administer the university is protected. Students will enjoy maximum benefit from this environment by accepting responsibilities commensurate with their role in the academic community. The principles found herein are designed to facilitate communication, foster academic integrity, and defend freedoms of inquiry, discussion, and expression among members of the university community.

B. Students will have the right:

1. to pursue an education free from illegal discrimination and to be judged on the basis of relevant abilities, qualifications, and performance;
2. to fair and impartial academic evaluation and a means of recourse through orderly procedures to challenge action contrary to such standard;
3. to free inquiry and expression;
4. to access their own personnel and education records and to have the university maintain and protect the confidential status of such records, as required by appropriate legal authority;
5. through student representatives, to participate in formulating and evaluating institutional policies;
6. to organize and join associations to promote their common and lawful interests;
7. to be able to protest on university premises in a manner which does not obstruct or disrupt teaching, research, administration, or other activities authorized by the university;
8. to an academic environment conducive to intellectual freedom;
9. to a fundamentally fair and orderly disciplinary process; and
10. to have access to accurate information regarding tuition, fees and charges, course availability, general requirements for establishing and maintaining acceptable academic standing, and graduation requirements.

C. Students are responsible for knowing, understanding, and complying with the University of Alaska Student Code of Conduct, which outlines both student rights and responsibilities as members of the academic community. The student code of conduct is available in the student handbook and/or online

D. Students are expected to balance these rights and responsibilities to promote a learning environment that is conducive to the academic success of all members of the community and strive to be a positive, contributing member of the academic community

(06-05-15)

09.02.020. Student Code of Conduct.

A. As with all members of the university community, the university requires students to conduct themselves honestly and responsibly and to respect the rights of others. Students may not engage in behavior that disrupts the learning environment, violates the rights of others or otherwise violates the student code of conduct (Code), university rules, regulations, or procedures. Students and student organizations will be responsible for ensuring that they and their guests comply with the Code while on property owned or controlled by the university or at activities authorized or sponsored by the university.

B. The university may initiate disciplinary action and impose sanctions on any student or student organization found responsible for committing, attempting to commit, or intentionally assisting in the commission of any of the following prohibited forms of conduct:

1. cheating, plagiarism, or other forms of academic dishonesty;
2. forgery, falsification, alteration, or misuse of documents, funds, property or electronic records;
3. damage or destruction of property;
4. theft of property or services;
5. harassment;
6. discrimination, including sex or gender-based discrimination, which is also addressed in Regents' Policy and University Regulation 01.04 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php>);
7. hazing;
8. endangerment, assault, or infliction of physical harm;
9. sex or gender-based misconduct;
10. disruptive or obstructive actions;
11. mistreatment of animals;
12. misuse of firearms, explosives, weapons, dangerous devices, or dangerous chemicals;
13. failure to comply with university directives;
14. misuse of alcohol;
15. misuse of drugs or other intoxicants;
16. violation of Regents' Policy, University Regulation, rules, or procedures; or
17. any other actions that result in unreasonable interference with the learning environment or the rights of others.

C. Examples of actions that constitute these prohibitions will be described in the University Regulation and MAU rules and procedures.

D. This policy and University Regulation and MAU rules and procedures are not intended to define prohibited conduct in exhaustive terms, but rather to set forth examples to serve as guidelines for acceptable and unacceptable behavior.

(08-14-20)

P09.02.030. Scope of University Authority for Violations of the Student Code of Conduct.

A. The student code of conduct and student conduct process apply to the conduct of individual students and all university affiliated student organizations. For purposes of determining what conduct is covered, the university considers an individual to be subject to student conduct proceedings for conduct that occurs while the individual is in any way affiliated with the university. Proceedings may be initiated at any time regardless of subsequent affiliation or graduation status. In all cases, conduct matters that have been initiated will be pursued to conclusion or resolution, even when students leave the university or choose not to participate in the process. As such, if a student leaves the university voluntarily or involuntarily, the university may still proceed with the conduct process in the student's absence. A student who has been alleged to have violated the Code may be prohibited from re-enrolling in the university until the allegations are resolved regardless of whether the student participates in the student conduct process.

B. Behavior that occurs on property owned or controlled by the university, in university online environments and classes, or at activities sponsored by or authorized by the university, is subject to university student conduct review and disciplinary action by the university. The student code of conduct may also apply to behavior that occurs off campus when it may present a potential danger or threat to the health and safety of others or may reasonably lead to a hostile environment on campus. The student code of conduct may also apply to behavior exhibited online or electronically via email, social media, text messaging, or other electronic means.

C. There is no time limit on reporting violations of the student code of conduct. Individuals are encouraged to report violations of the student code of conduct in a timely manner.

D. Alleged violations of federal, state, or local laws that are also potential violations of the student code of conduct fall within the jurisdiction of the university. The university reserves its right to pursue disciplinary action independent of the criminal proceedings, if the alleged criminal charges are also violations of the student code of conduct. University actions will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced. University student conduct proceedings may precede, follow, or take place simultaneously with criminal proceedings.

(12-11-15)

P09.02.040. University Student Conduct Procedures.

Procedures for Code violations will be set forth in University Regulation and MAU rules and procedures and will provide for appropriate process. However, there may be circumstances that make it necessary to make minor adjustments to these procedures. Unless the adjustment to the procedures seriously impairs or infringes upon the rights of the student or students involved, this does not provide a basis for claims outside the university or appeal within the university.

(06-05-15)

P09.02.050. Disciplinary Sanctions and Reinstatement of University Benefits.

A. In accordance with Alaska Statute 14.40.240, the president of the University of Alaska is authorized to delegate the president's authority to suspend, expel, and reinstate a student.

B. The president or designee is authorized to revoke a degree that has been conferred by the board if a student has been found to have engaged in misconduct in pursuit of that degree.

C. Other sanctions for misconduct, and designation of the authority to impose these sanctions, may be established by the president in University Regulations.

D. Sanctions may be imposed on individual students who violate the Code. Sanctions may also be imposed on a student organization when the organization violates the Code or when a member's misconduct is attributable to the organization. Disciplinary sanctions imposed on a student by one MAU will be effective throughout the university system.

E. An interim restriction is an immediate and temporary limitation on a student's access to the university or university services or functions, including conferral of a degree, pending the outcome of the university student conduct investigatory process. An interim restriction may be imposed on a student prior to a student conduct review if the chancellor or designee reasonably determines that the student poses a threat to the student's safety or to the safety of other members of the university community, or is obstructing or disrupting teaching, research, administration, or other activities authorized by the university.

(06-05-15)

P09.02.060. Opportunity for Review of Decisions from Student Conduct Proceedings.

Students will be notified in writing of decisions or sanctions resulting from university student conduct proceedings affecting them, in accordance with University Regulation and MAU rules and procedures. Such notification will be accompanied by information regarding any additional review process.

(06-05-15)

P09.02.070. Records and Confidentiality Regarding Conduct Violations.

The management of student records pertaining to the violation of the Code, and the confidentiality accorded these records, will be set forth in Regents' Policy, University Regulation, and MAU rules and procedures regarding education records.

(11-20-98)

P09.02.080. Final University Decision.

A final university decision is one for which there is no further review within the university. The university will inform the student in writing and in accordance with University Regulation when a decision constitutes the university's final decision.

(09-19-14)

R09.02.010. General Statement: Student Rights and Responsibilities.

The purpose of this regulation is to further define the University of Alaska's Student Code of Conduct, or Code, and to establish a framework for the enforcement of the Code. These procedures, and their elaboration in MAU rules and procedures, will allow for fact-finding and decision-making in the context of an educational community, encourage students to accept responsibility for their actions, and provide procedural safeguards to protect the rights of students and the interests of the university. These procedures are applicable to all students and student organizations.

(08-14-20)

R09.02.020. Student Code of Conduct.

Disciplinary action may be initiated by the university and disciplinary sanctions imposed against any student or student organization found responsible for committing, attempting to commit, or intentionally assisting in the commission of any of the following categories of conduct prohibited by the Code.

The examples provided in this section constituting forms of conduct prohibited by the Code are not intended to define prohibited conduct in exhaustive terms, but rather to set forth examples to serve as guidelines for acceptable and unacceptable behavior.

1. Cheating, Plagiarism, or Other Forms of Academic Dishonesty

Academic dishonesty applies to examinations, assignments, laboratory reports, fieldwork, practicums, creative projects, or other academic activities. Examples include, but are not limited to:

- a. presenting as their own the ideas or works of others without proper citation of sources;
- b. utilizing devices not authorized by the faculty member;
- c. using sources (including but not limited to text, images, computer code, and audio/video files) not authorized by the faculty member;
- d. providing assistance without the faculty member's permission to another student, or receiving assistance not authorized by the faculty member from anyone (with or without their knowledge);
- e. submitting work done for academic credit in previous classes, without the knowledge and advance permission of the current faculty member;
- f. acting as a substitute or utilizing a substitute;
- g. deceiving faculty members or other representatives of the university to affect a grade or to gain admission to a program or course;
- h. fabricating or misrepresenting data;
- i. possessing, buying, selling, obtaining, or using a copy of any material intended to be used as an instrument of assessment in advance of its administration;
- j. altering grade records of their own or another student's work;
- k. offering a monetary payment or other remuneration in exchange for a grade; or
- l. violating the ethical guidelines or professional standards of a given program.

2. Forgery, Falsification, Alteration, or Misuse of Documents, Funds, Property, or Electronic Records

Examples include, but are not limited to:

- a. forgery, falsification, or alteration of records or deliberate misrepresentation of facts on university forms and documents;
- b. misrepresenting the truth during a university investigation or student conduct proceeding and/or making false statements to any university official, faculty member, or office;
- c. misuse or unauthorized use of university identification cards, keys, funds, property, equipment, supplies or other resources; such as:
 - i. possession of fake or altered identification;

- ii. unauthorized duplication of any university key or key card;
- iii. lending keys or key cards to individuals not authorized to possess them;
- iv. misusing university computer resources by intentionally making, receiving, accessing, altering, using, providing or in any way tampering with messages, files, electronic storage devices, programs, passwords or other computer users without their permission (as further defined in Regents' Policy 02.07 (<https://www.alaska.edu/bor/policy-regulations/chapter-02-07-information-resources.php>)); or
- v. use or possession of copyrighted material, including, without limitation, software, graphics, text, photographs, sound, video and musical recordings without the express permission of the owner of the copyright in the material, or other legal entitlement to use the material.
- d. falsely representing oneself as an agent of the university, incurring debts or entering into contracts on behalf of the university; or
- e. unauthorized entry into, presence on, or use of property which has not been reserved or accessed through appropriate university officials.

3. Damage or Destruction of Property

Examples include, but are not limited to:

- a. damage or destruction to property owned or controlled by the university; or
- b. damage or destruction of property not owned or controlled by the university if:
 - i. the action occurred during an event sponsored or authorized by the university;
 - ii. the student was a representative of the university, such as an athlete, student government representative or club member, and the action occurred while traveling to or from an event sponsored or authorized by the university; or
 - iii. the property not owned or controlled by the university was located on university property.

4. Theft of Property or Services

Examples include, but are not limited to:

- a. theft or unauthorized possession or removal of university property;
- b. theft or unauthorized use of university services or unauthorized presence at university activities without appropriate payment for admission; or.
- c. theft of property or services not owned or controlled by the university if:
 - i. the action occurred during an event sponsored or authorized by the university;
 - ii. the student was a representative of the university, such as an athlete, student government representative or club member and the action occurred while traveling to or from an event sponsored or authorized by the university; or
 - iii. the property not owned or controlled by the university was located on university property.

5. Harassment

Harassment is defined as behavior that is severe, pervasive or persistent to a degree that a reasonable person similarly situated would be prevented from fully accessing educational benefits, university services, or other

opportunities. Harassment is also defined as behavior that limits the ability of third parties to conduct business. This behavior includes, but is not limited to, verbal abuse, threats, intimidation, and coercion (that is not speech or conduct otherwise protected by the First Amendment). In addition, harassment may be conducted in a variety of mediums, including, but not limited to, physical, verbal, graphic, written, or electronic. Examples include, but are not limited to:

- a. threats, defined as written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property;
- b. intimidation, defined as implied threats or acts that cause reasonable fear of harm in another;
- c. bullying, defined as repeated, unreasonable actions directed towards an individual (or a group) resulting in intimidating, degrading, humiliating, or undermining behavior that creates a risk to the health or safety of individuals;
- d. cyberbullying, defined as repeated, unreasonable actions using electronic communications that are directed towards an individual (or a group) resulting in intimidating, degrading, humiliating, or undermining behavior that creates a risk to the health or safety of individuals; or
- e. stalking, defined as repetitive and/or menacing pursuit, following, or interference with the peace and/or safety of an individual(s).

6. Discrimination

Discrimination is defined as being adversely treated or affected, either intentionally or unintentionally, in a manner that unlawfully differentiates or makes distinctions on the basis of the individual's legally protected status. Illegal discrimination against any individual because of race, color, religion, national origin, age, sex, sexual orientation, veteran status, physical or mental disability, marital status, pregnancy, or parenthood is prohibited.

7. Hazing

Hazing is defined as an act(s) considered by a reasonable person to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, pledging, recruiting, joining, or continuing participation, in any group-affiliated activity. It is not a defense that the person, group, or organization against whom the physical abuse was directed consented or acquiesced to the physical abuse.

8. Endangerment, Assault, or Infliction of Physical Harm

Endangerment, assault, or infliction of physical harm is defined as conduct which threatens the health and safety of another person, or conduct which threatens or causes physical harm to another person, or threatening or causing physical harm to another person.

Examples include, but are not limited to:

- a. physical abuse, defined as threatening or causing injury or physical pain to another person, or threatening or causing physical contact with another person when the person knows or should reasonably have known that the other person(s) will regard the contact as offensive or provocative;
- b. relationship violence, defined as violence or abuse by a person on another person with whom they are engaged in an intimate relationship. An intimate relationship is defined as a relationship related to marriage, cohabitation, dating or within a family and can occur in opposite-sex and same-sex relationships, regardless of whether it is a current or past relationship. Examples of relationship violence include but are not limited to:
 - i. domestic violence: a pattern of coercive, controlling behavior in which one intimate partner uses physical violence, coercion, threats, intimidation

and emotional, psychological, electronic media or economic abuse to control and change the behavior of the other partner; or

- ii. dating violence: behavior(s) used to exert power and control over a dating partner. Examples of power and control may come in the form of emotional, verbal, financial, physical, or electronic media abuse.

- c. dangerous behaviors, defined as actions that pose a risk of physical harm to another, which cause reasonable apprehension of physical harm, and/or create hazardous conditions; or

- d. acts that jeopardize the safety or security of the university, the university community, or any university facilities, buildings, or premises, including but not limited to:

- i. starting a fire or creating a fire hazard on university property without university authorization;
- ii. tampering with, damaging, disabling or misusing fire safety equipment including fire extinguishers, fire sprinklers, fire hoses, fire alarms, and fire doors;
- iii. misuse of medical equipment such as automated external defibrillators; or
- iv. disabling safety equipment such as security cameras, door locks, key card readers, and alarms.

9. Sex or Gender-based Misconduct (Including, but not limited to, any sex or gender-based misconduct not required to be handled under University Regulation 01.04 (<https://www.alaska.edu/bor/policy-regulations/chapter-01-04-titleix.php>).

10. Disruptive or Obstructive Actions

Examples include, but are not limited to:

- a. obstructing or disrupting teaching, research, administration, disciplinary proceedings, or other activities authorized by the university;
- i. behavior in a classroom, e-learning environment or instructional program that unreasonably interferes with the instructor or presenter's ability to conduct the class or program, or the ability of others to benefit from the class or program;
- ii. any behavior in class or out of class, which for any reason, unreasonably interferes with the classwork of others, involves disorder, or otherwise disrupts the regular and essential operation of the university;
- iii. non-compliance with reasonable time, place, or manner restrictions on expression; or
- iv. leading or inciting others to disrupt scheduled and/or normal activities on university premises.
- b. interfering with the freedom of movement of any member or guest of the university to enter, use or leave any university facility, service or activity; or
- c. disorderly conduct, including but not limited to, lewd or indecent behavior or conduct that disturbs the peace.

11. Mistreatment of Animals

Examples include, but are not limited to:

- a. noncompliance with accepted animal research procedures, regulations or guidelines set forth by institutional, local, state or federal policies; or

b. taunting or physically harassing wildlife or otherwise creating an unsafe or hazardous environment involving wildlife on property owned or controlled by the university.

12. Misuse of Firearms, Explosives, Weapons, Dangerous Devices, or Dangerous Chemicals
Examples include, but are not limited to: unauthorized use, possession, or sale of these items in violation of law, Regents' Policy, University Regulation, or MAU rules and procedures. See Regents' Policy and University Regulation on Possession of Weapons, currently 02.09.020 (<https://www.alaska.edu/bor/policy-regulations/chapter-02-09-public-safety.php#P0209020>).

13. Failure to Comply with University Directives
Examples include, but are not limited to:

- a. failure to comply with the directions of law enforcement officers or university officials acting in the performance of their duties;
- b. failure to identify oneself to university officials when requested; or
- c. failure to comply with disciplinary sanctions imposed by the university.

14. Misuse of Alcohol
Examples include, but are not limited to:

- a. use, possession, manufacture, or distribution of alcoholic beverages in violation of local, state or federal law, Regents' Policy, University Regulation, or MAU rules and procedures.; or
- b. Engaging in any other category of prohibited conduct while under the influence of alcohol may constitute a violation of this category.

15. Misuse of Drugs or Other Intoxicants
Examples include, but are not limited to:

- a. use, possession, manufacture, distribution, or being under the influence of illegal drugs or other controlled substances in violation of local, state or federal law, Regents' Policy, University Regulation or MAU rules and procedures;
- b. abuse or misuse of prescription or over-the-counter medications, other chemical substances or other intoxicants;
- c. engaging in any other category of prohibited conduct while under the influence of legal drugs or other intoxicants may constitute a violation of this category; or
- d. use, possession, manufacture, distribution, or being under the influence of designer drugs.

16. Violation of Regents' Policy, University Regulation, or UA Rules or Procedures
Any violation of Regents' Policy, University Regulations or other university policies, procedures, or rules published in hard copy or online or that are otherwise communicated to students verbally or in writing is considered a violation of this category of the student code of conduct.
Examples of such policies, procedures, rules or regulations include, but are not limited to, those described in:

- a. student handbooks;
- b. residence life handbooks;
- c. dining hall policies;
- d. housing agreements;

e. course syllabi; or classroom rules.

(08-14-20)

R09.02.040. University Student Conduct Procedures.

A. Definitions of Terms

- 1. Day: A day the campus is open for business Monday through Friday, even if classes are not scheduled.
- 2. Third-party Reporter: An individual bringing forth information that another individual or group of individuals may have violated the student code of conduct.
- 3. Complainant: An individual or group of individuals who has allegedly been subject to a destructive or injurious violation of the student code of conduct by another individual or group of individuals.
- 4. Respondent: An individual or group of individuals accused of violating the student code of conduct.
- 5. Major Sanction: Major sanctions include suspension, expulsion, revocation of a degree, and other sanctions specified by MAU rules and procedures as being major sanctions.
- 6. Minor Sanction: Minor sanctions are those other than ones specified as major sanctions, such as warning, probation, discretionary sanctions, etc., as described in University Regulation 09.02.050 (<https://www.alaska.edu/bor/policy-regulations/chapter-09-02-student-rights-responsibilities.php#R0902050>).
- 7. Student Conduct Procedure: A student conduct procedure is a review undertaken by the university to establish whether there is substantial information to determine whether it is more likely than not that a student violated the Code.
- 8. Student Conduct Administrator: A student conduct administrator is a university official authorized by the MAU senior student services professional or designee to collect information, initiate the student conduct process, articulate alleged violations, present information indicating whether alleged violations occurred, conduct administrative reviews, and impose or recommend, as applicable, sanctions upon any student(s) found to have violated the student code of conduct.
- 9. Administrative Review: An administrative review is a meeting between the student conduct administrator and a student, where the student has the opportunity to review the alleged violation and present information relevant to the allegations. An administrative review is the review process for matters involving imposition of either a minor or major sanction.

10. Major Administrative Unit (MAU): MAUs in the UA system include the system offices and three separately accredited universities, UAA, UAF, and UAS. In the case of the universities, each MAU includes its main campus as well as its affiliated community and satellite campuses and extended sites.

B. Authority and Responsibilities of MAU Senior Student Services Professionals

Each chancellor will appoint a senior student services professional experienced in student disciplinary proceedings who will supervise and implement a student conduct review process for student disciplinary matters for the MAU. The MAU senior student services professional will consult with extended site directors prior to delegating student disciplinary responsibilities to staff located on extended sites. The MAU senior student services professional or designee has authority over disciplinary proceedings and is responsible for:

1. serving as, or designating, a student conduct administrator to conduct administrative reviews; and
2. modifying timelines associated with student conduct proceedings in order to accommodate the academic calendar and for other reasons deemed appropriate.

C. Students Living on Campus

The chancellor or MAU senior student services professional may establish in MAU rules and procedures a student conduct process specifically designed for students living on campus for matters relating to residence life. Such processes do not preclude other disciplinary action under the student code of conduct. Such processes must comply with University Regulation 09.02.010 (<https://www.alaska.edu/bor/policy-regulations/chapter-09-02-student-rights-responsibilities.php#R0902010>).

D. Group Violations

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of the Code by the organization and/or its member(s):

1. take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or implied;
 2. have received the consent or encouragement of the organization or of the organization's leaders or officers; or
 3. were known or should have been known to the membership or its officers.
- The chancellor or MAU senior student services professional may establish in MAU rules and procedures a conduct process specifically designed for students participating in student organizations for matters relating to student organization conduct. Such processes must comply with University Regulation 09.02.010. If no MAU rules and procedures are established, the conduct process for student organizations will follow the student conduct process. In any such action, individual determinations as to responsibility will be made and the sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual and the organization.

E. Amnesty

1. The university may provide amnesty from minor policy violations to students who report misconduct and who otherwise may be hesitant to report student misconduct to university officials because they fear being accused of minor policy violations that occurred during the incidents.
2. The university may provide amnesty from minor policy violations when students offer help to others in need. Amnesty may also be extended on a case-by-case basis to the person receiving assistance.
3. Students who are engaged in minor policy violations who choose to bring related, more serious violations by others to the attention of the university may be offered amnesty for their minor policy violations.
4. If students bring their own use of, addiction to, or dependency on alcohol or drugs to the attention of university officials outside of student conduct procedures, the conduct is unrelated to other prohibited conduct and the student seeks assistance, the university will grant amnesty to students for the drug and alcohol violations reported. The university may require students to comply with written action plans to track follow-through with students' requests for such assistance. Failure to follow the action plan will nullify the amnesty provision and the university may initiate student conduct proceedings.

5. Abuse of amnesty requests can result in a decision by the student conduct administrator not to extend amnesty to the same person repeatedly. Student services will maintain records of incidents for which amnesty is granted.

6. Students granted amnesty may be required to complete educational programs. In the event the student chooses not to complete the educational programs, amnesty may be nullified and the student may be subject to student conduct proceedings.

F. Rights Afforded Students in Student Conduct Proceedings

1. Students have the right to due process in conduct proceedings. This regulation articulates a level of process meeting constitutional requirements. However, a violation of this regulation shall not be grounds for overturning a determination if the proceeding otherwise meets constitutional due process requirements.
2. Students have the right not to respond to the allegations during the student conduct proceeding. However, the university maintains the right to make a determination regarding responsibility and administer sanctions based on the available information.
3. A student may be accompanied by an advocate of their choice during student conduct proceedings.
4. Students may have access to records of their student conduct proceedings.
5. Students may appeal decisions to impose minor sanctions and/or the severity of the sanction to the MAU senior student services professional or designee. Students will be afforded an opportunity to provide comments to the MAU senior student services professional on recommendations to impose major sanctions.

G. Rights Afforded Injured Parties during the Student Conduct Process

1. The university will consider the needs and circumstances of injured parties. The university will take such measures as it deems reasonable to prevent the unnecessary exposure of victims of alleged violations of the student code of conduct.
2. A victim of alleged violation of the student code of conduct will be provided such information regarding the student conduct process, support and assistance options, other remedies and the university's responses as required by law.

H. Initiation of a Student Conduct Review

1. Any university student, faculty, staff member, or community member may report an alleged violation of the Code. Allegations of Code violations must be in writing and submitted to the student conduct administrator in accordance with MAU rules and procedures. Though anonymous complaints are permitted, doing so may limit the university's ability to investigate and respond to a complaint. The university has the right to pursue notice of student misconduct on its own behalf and initiate a student conduct review, regardless of whether or not a formal allegation is submitted by a complainant.
2. The student conduct administrator and/or appropriate university official will review the allegations and conduct an appropriate preliminary investigation to determine:
 - a. whether to dismiss the matter because insufficient information exists to support the accusation; or

b. whether sufficient information exists to warrant further student conduct proceedings; and, if so,

c. whether the allegations, if substantiated, will subject the student to a major or a minor sanction.

3. The student conduct administrator will send the student written notification:

- a. of the allegations of misconduct and the provisions of the Code which allegedly have been violated;
- b. of the student conduct administrator's name, telephone number, and office location; and the time period in which to schedule a meeting to review the allegations;
- c. of whether a major or minor sanction is likely to be imposed should the allegations be substantiated by a preponderance of the evidence; and
- d. that, should the student fail to schedule a meeting, the meeting will be scheduled by the student conduct administrator.

4. Should a student fail to schedule a meeting within the time period specified in the notification of allegations, the student conduct administrator will schedule the meeting and notify the student in writing at least three days in advance of the scheduled meeting that, should the student fail to respond or appear, the student conduct administrator will conduct an administrative review.

5. Alternatively, the student conduct administrator may send an initial notice that identifies a default date and time at which the conduct meeting will occur unless rescheduled, provided that the initial notice complies with the requirements of this section.

I. General Rules for Administrative Reviews

1. The university student conduct system is an administrative process and is not a court of law and is not held to standards applied in criminal proceedings. Formal rules of evidence will not apply. Testimony containing hearsay may be heard, and will be weighted appropriately, taking into account the reliability of the information. Findings and conclusions will be based upon information presented during the review.
2. Student disciplinary determinations of responsibility are based on whether substantial evidence establishes that it is more likely than not that the respondent violated the Code.
3. Dates and times for reviews will ordinarily be scheduled between three and fifteen days after written notice of the allegations has been sent to the student, at times determined by the student conduct administrator.
4. The student conduct administrator will conduct an administrative review.
5. Should a student fail to appear for an administrative review, the student conduct administrator may determine to proceed with the review without the student.
6. Reviews may be conducted by audio-conference, videoconference, or at an offcampus location, if directed by the student conduct administrator.
7. The student conduct administrator will establish reasonable rules for the participants' conduct during the review and will make them available to all parties.
8. Students may select an advocate for assistance during the proceedings. Should the student choose an attorney for an advocate, the student is

responsible for the attorney's fees and legal costs regardless of the outcome of the review.

J. Procedures for Administrative Reviews

1. At the scheduled meeting the student conduct administrator will review the allegations and available information regarding the matter. The student(s), if present, will be given the opportunity to present relevant information, names of witnesses, relevant explanations, and/or mitigating factors for the alleged violation.
2. Attendance at administrative reviews is limited to individuals approved by the student conduct administrator.
3. An advocate for the student may be present during the review, but may not represent the student in the proceedings, nor speak or ask questions on the student's behalf unless authorized by the student conduct administrator.
4. If, during an administrative review for an allegation, new information is presented that could subject the student to additional allegations, the student will be notified, in writing, of the new allegations. The new allegations will be reviewed at a subsequent administrative review.
5. If, during an administrative review for an allegation originally determined to be subject to imposition of a minor sanction, new information is presented that could make the student subject to a major sanction, the review will be suspended. The student will be notified in writing of the allegations now subject to the imposition of a major sanction. The allegations and sanctions will be reviewed in a subsequent administrative review.

K. Written Findings and Conclusions

An administrative review will result in the preparation of written findings and conclusions within ten days of the conclusion of an administrative review, barring extenuating circumstances. Conclusions will result in one of the following:

1. Allegations are dismissed.
2. A minor sanction is imposed. If a minor sanction is imposed, the student conduct administrator will send the student written notification of the decision, of the reasons for the decision and of the right to appeal.
3. A major sanction is recommended. If a major sanction is recommended, barring extenuating circumstances, the student conduct administrator will, within 10 days of the conclusion of an administrative review:
 - a. send the student written notification of the recommendation, of the reasons for the decision, and of the right to provide comment to the MAU senior student services professional; and
 - b. forward the record of the administrative review to the MAU senior student services professional.

L. Appeal Procedure for Minor Sanctions

The respondent may appeal a decision to impose a minor sanction.

1. Appeals may be made on the basis that:
 - a. a procedural error was made during the process which significantly impacted the finding or sanction;

b. the sanctions imposed are substantially outside the parameters of guidelines set by the university for this type of offense or the cumulative conduct record of the respondent;

c. there is new information that was not available at the time of the decision that, if introduced and credible would have significantly impacted the finding or sanction. Any party's unwillingness to provide a statement or participate in the student conduct process will not satisfy this ground for appeal; or

d. the decision is not supported by a preponderance of the evidence.

2. Appeals must be submitted in writing within seven days of the day the decision is sent to the student, and in accordance with MAU rules and procedures.

3. The MAU senior student services professional or designee will conduct a review of the record and will ordinarily render a decision within seven days of receipt of the appeal, barring extenuating circumstances. The MAU senior student services professional or designee may:

a. uphold a decision and/or sanction;

b. dismiss the case;

c. alter or lessen a sanction;

d. refer the matter back for further review;

e. authorize a new administrative review; or

f. take such other action as the senior student services officer or designee deems appropriate.

4. Except in cases referred for further proceedings, the decision of the MAU senior student services professional or designee constitutes the university's final decision on the matter. Notification to the affected students must be made in writing and in accordance with Regents' Policy and University Regulation.

M. Review Procedures for Major Sanctions

The student conduct administrator will forward a recommendation to impose a major sanction to the MAU senior student services professional for review.

1. The respondent will be given an opportunity to comment upon the findings, conclusions, and recommendation of the administrative review. Comments must be submitted in writing within seven days of the day the findings, conclusions, and recommendation are sent to the student, and in accordance with MAU rules and procedures.

2. The MAU senior student services professional or designee will review the record and render a decision within fourteen days of receipt of the recommendation, barring extenuating circumstances, and may:

a. uphold a decision and/or recommended sanction;

b. dismiss the case;

c. alter or lessen the sanction;

d. refer the matter back for further review;

e. authorize a new administrative review; or

f. take such other action as the senior student services professional or designee deems appropriate.

3. If the MAU senior student services professional has recommended a major sanction, the chancellor will review the record and, barring extenuating circumstances, render a decision within seven days of receipt of the recommendation. The chancellor may:

a. uphold a decision and/or impose the sanction;

b. dismiss the case;

c. alter or lessen the sanction;

d. refer the matter back for further review;

e. authorize a new administrative review; or

f. take such other action as the chancellor deems appropriate.

Except in cases referred for further proceedings, the decision of the chancellor constitutes the university's final decision on the matter. Notification to the affected students must be made in writing and in accordance with Regents' Policy and University Regulation.

(08-14-20)

R09.02.050. Disciplinary Sanctions and Reinstatement of University Benefits.

Except where otherwise noted in Regents' Policy or University Regulation, the authority to impose sanctions or summary restrictions may be delegated as provided by MAU rules and procedures. Sanctions imposed by one MAU are applicable across the university system except to the extent explicitly provided otherwise in writing.

A. Interim Restriction

Interim restrictions may be issued in writing by the chancellor or designee.

B. Sanctions

In determining appropriate sanctions a student's present and past disciplinary record, the nature of the offense, the severity of any damage, injury, or harm resulting from the prohibited behavior, and other factors relevant to the matter will be considered. The following list of sanctions is illustrative rather than exhaustive. The university reserves the right to create other reasonable sanctions or combine sanctions as it deems appropriate.

1. Warning

A warning is notice that the student is violating or has violated the Code, and that further misconduct may result in more severe disciplinary action.

2. Disciplinary Probation

Disciplinary probation is a written warning which includes the probability of more severe disciplinary sanctions if the student is found to be violating the Code during a specified period of time (the probationary period).

3. Denial of Benefits

Specific benefits may be denied a student for a designated period of time.

4. Restitution

A student may be required to reimburse the university or other victims related to the misconduct for damage to or misappropriation of property, or for reasonable expenses incurred.

5. Discretionary Sanction

Discretionary sanctions include community service work or other uncompensated labor, educational classes, research papers, reflective essays, counseling, or other sanctions that may be seen as appropriate to the circumstances of a given matter. Costs incurred by the student in

fulfilling a discretionary sanction will typically be the responsibility of the student.

6. Restricted Access

A student may be restricted from entering certain designated areas and/or facilities or from using specific equipment for a specified period of time.

7. Suspension

Suspension is the separation of the student from the university for a specified period of time, after which the student may be eligible to return. Conditions under which the suspension may be removed and for re-enrollment will be included in the notification of suspension. During the period of suspension, the student may be prohibited from participation in any activity sponsored or authorized by the university and may be barred from all property owned or controlled by the university, except as stated on the notification.

The authority to suspend a student is, by this regulation, delegated to the chancellors. Chancellors may not re-delegate this authority.

8. Expulsion

Expulsion is considered to be the permanent separation of the student from the university. The student may be prohibited from participation in any activity sponsored or authorized by the university and may be barred from property owned or controlled by the university except as stated on the notice of expulsion.

The authority to expel a student is, by this regulation, delegated to the chancellors. Chancellors may not re-delegate this authority.

9. Revocation of a Degree

Any degree previously conferred by the university may be revoked if the student is found to have committed academic misconduct in pursuit of that degree.

The authority to revoke a degree is, by this regulation, delegated to the chancellors. Chancellors may not re-delegate this authority.

C. Group Sanctions

Student groups or organizations found to have violated provisions of the Code may be put on probation or sanctioned, which may include loss of university-related benefits and access to university facilities and university-held funds.

D. Reinstatement of University Benefits

The conditions, if any, for re-enrollment and reinstatement of university benefits lost through imposition of a sanction will depend upon the disciplinary sanctions imposed and will be specified in the notification of sanction.

Before a university benefit lost by sanction at one MAU may be reinstated at another, the MAU senior student services professional or designee at the former MAU must be consulted.

The authority to reinstate a student following suspension or expulsion is hereby delegated to the chancellors by the president of the university.

Chancellors may not re-delegate this authority. Any student who is reinstated will be on university disciplinary probation for a minimum of one year from the date of re-enrollment.

(07-27-15)

the university has mailed or otherwise distributed the final decision to file an appeal; and that failure to file an appeal constitutes acceptance of the decision and a waiver of any further legal rights.

(11-20-98)

R09.02.080. Final University Decision.

The university will inform a student in writing when a decision constitutes the university's final decision in any review procedure. Where applicable, the notification of final decision will also state that further redress on the issue may be had only by filing an appeal with the Superior Court of Alaska; that, in accordance with Alaska Appellate Rule 602(a)(2) regarding appeals from administrative agencies, the student has thirty (30) calendar days after