

**SB**

**91**

<TARGET><BILL>SB 91</BILL><SUBJECT>SB  
91</SUBJECT><COMM>SEDC28</COMM></TARGET>

Summary of Changes, Version A to Version () N

1. Section 1, Page 1, Line 6.  
“**substantial risk of serious physical injury**”  
Rationale: this language aligns with the language in reckless endangerment statutes.
2. Section 1, Page 1, Lines 9-11 (aka, (b)).  
“This section does not apply to an act or situation that **arises from conduct reasonably expected through participation** in an athletic, physical education, military training or similar program sanctioned by a school.  
Rationale: removes the dubious ‘normal and customary’ language, but still gets the point across that while we expect some physical injury in athletics and military situations, anything outside what is reasonably expected is not ok.
3. Section 1, Page 2, Line 1  
“...social group, **faith-based group**, athletic team...”  
Rationale: based on the study by Professor Norm Pollard of Alfred University that indicated church groups have some of the highest percentages of students involved in hazing, we decided to explicitly name faith-based groups as being subject to this statute. [However, the groups will still be covered in the ‘catch-all’ part of the definition if they are not included.] While there are no school-sanctioned faith-based groups in public schools, there are student-led groups that may be; also, under AS 14.45.100, this bill would affect private schools because it has to do with the physical well-being of students.
4. Section 1, Page 2, Lines 4-5  
**Delete** “(f) Hazing is a calls B **felony** if the person causes death or serious physical injury.”  
Rationale: too strong, plus they’ll be covered under other criminal statutes.
5. Section 5, Page 3, Line 8  
Changes “it” to “**the results**”.  
Rationale: this change came from leg legal, and simply clarifies wording.
6. Section 7, Page 3, Line 18  
“**Failure to report shall result in appropriate disciplinary action by the school.**”  
Rationale: if reporting is a requirement, it seems inconsistent to not outline a consequence for failing to do so.
7. Section 10, Page 4, Line 1  
Change “intentional act” to “**an act knowingly committed**”  
Rationale: (annie carpeneti) aligns language with definition in section 1.

8. Section 10, Page 4, Line 5

Delete "is normal and customary" and insert "**arises from conduct reasonably expected through participation**".

Rationale: see point 2 above.

9. Section 10, Page 4, Line 9

"...social group, **faith-based group**, athletic team..."

Rationale: see point 3 above

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 9, 2013

**SUBJECT:** CS for Hazing Bill -- CSSB 91( )  
(Work Order No. 28-LS0720\N)

**TO:** Senator Anna Fairclough  
Attn: Tally Teal

**FROM:** Kathleen Strasbaugh  
Legislative Counsel

Please find enclosed the draft CS that you requested. Among the changes is the specific inclusion of faith based groups among the groups listed in the definition of "organization" in both the criminal and the school district provisions of the bill.

I have some concerns about making special mention of faith based groups. It is not clear that it is necessary to further specify additional types of groups, given the inclusion of "similar groups" in the list of affected organizations. Prosecution of faith based groups for such conduct could stimulate a challenge to the law based either on a claim of government interference with religious observance (for example if a religious organization claims a hazing event is a religious practice), or a claim that religious organizations are being treated unfavorably compared to, for example, a "free thinkers" group.<sup>1</sup> This is not to say that faith based groups are not subject to criminal liability. The generic definition of "organization" in the criminal code does include the term "church," and organizations are legally accountable for criminal conduct. AS 11.81.900(b)(46); AS 11.16.130. Religious health care providers are just as liable as other health care providers for certain conduct under the sexual assault statutes. AS 11.41.470(1).<sup>2</sup>

Thus, whether or not faith based groups are mentioned in the statute, prosecution of a religious group that engages in hazing may raise legal challenges. I just wanted to alert

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<sup>1</sup> Claims of unfavorable treatment, or "viewpoint discrimination" under the first amendment often arise in the context of the use of public facilities, not in response to the mere mention of faith based organizations in statutes, but I wanted to let you know what the conceptual underpinnings of a challenge might be. *See, e.g., Good News Club v. Milford Central School*, 533 U.S. 98 (2001).

<sup>2</sup> However, unlike some states, Alaska exempts certain religious practices from criminal nonsupport statutes - so that a person who prays for a child or vulnerable adult rather than seeking medical treatment will not be prosecuted under AS 11.51.120 and 11.51.210.

Senator Anna Fairclough

April 9, 2013

Page 2

you that specifically mentioning these groups might draw a challenge. With respect to adding faith based groups to the AS 14.33 definition, it is not likely that a public school would sanction or sponsor a religious organization, although a school might let a religious group meet in a school after hours.

For sec. 7 of the bill, you asked for specific language requiring disciplinary action for failure to report an incident. I have used most of that language, but I think it would be better to use terminology (like "take appropriate action") that acknowledges that there may be other outcomes after the failure to report is discovered (for example, an investigation reveals that there was a report or a person was afraid to report) than a disciplinary action.

If I may be of further assistance, please advise.

KJS:lnd  
13-237.lnd

Enclosure

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/29/13

FURTHER: Judiciary

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/10/13

Education Committee considered SENATE BILL NO. 91

SB 91 HAZING

"An Act relating to hazing."

and recommends:

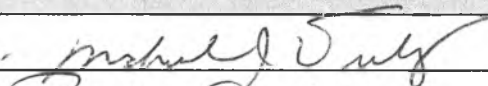
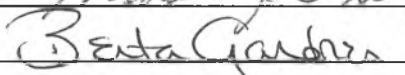
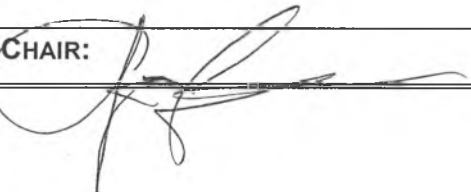
- be replaced with CS SB 91 (EDC)  Same Title [ ] New Title
- [ ] adopt previous CS \_\_\_\_\_ [ ] Same Title [ ] New Title
- [ ] attached amendment(s) SCS/CS- Forthcoming
- [ ] adopt \_\_\_\_\_ Letter of Intent
- [ ] further referral to \_\_\_\_\_ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
<u>EED</u>			✓	1
<u>COR</u>			✓	2

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

[ ] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	<u>DUNLEAVY</u>				✓
	<u>Gardner</u>	X			
CHAIR: 	<u>STEVEN</u>	X			



# Alaska State Legislature

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## Senator Anna Fairclough – Senate District M

### Sponsor Statement SB 91: Hazing

More than one in ten victims of hazing express a desire for revenge, according to Professor Norm Pollard of Alfred University, who authored one of the first thorough studies of hazing in 1999. Hazing does not stop with the act itself, but engenders more hazing, abuse, and even suicide.

One in five American high school students admits to being directly involved in hazing their peers. Most stories go unreported. Those that surface are reminders of the harsh acts students can carry out on one another. The Juneau Empire reported in December 2008, for example, that Juneau high school athletes returned from a meet with “frostbitten hands and welts on backsides” that were the result of “being ordered to hold onto ice until the skin burned” and “being held down and paddled by a group of students.”

Professor Pollard says that public evidence of hazing usually points to an abundance of similar acts taking place in private. The same vicious cycles that underwrite bullying, harassment, and abuse also perpetuate hazing. Victims in turn haze others—or, worse, act destructively towards themselves. Alaska is one of only six states where hazing is not a crime.

SB 91 defines hazing and expands school district policies to include hazing. The bill prohibits reprisal against witnesses and grants immunity to those who report incidents of hazing in good faith, in order to bring to light the acts that do happen. These provisions already exist in law for harassment, intimidation, and bullying in schools. SB 91 extends these sections to hazing. The bill also makes hazing a class A misdemeanor and makes acts that result in serious injury or death class B felonies.

The majority of states have recognized that schools, educators, and communities all have a responsibility to work together to protect students from hazing. This bill is a critical step towards ensuring our students are safe.



# Alaska State Legislature

## Senator Anna Fairclough – Senate District M

### Sectional Analysis SB 91: Hazing

**Sec 1.** Adds a new section to AS 11.61, AS 11.61.115.

- Subsection (a) defines hazing as a crime.
- Subsection (b) exempts athletic or military programs that are normal, customary, and sanctioned.
- Subsection (c) prohibits consent of the victim as a defense against hazing.
- Subsection (d) defines “organization” as one of a variety of groups whose members are primarily students.
- Subsection (e) makes hazing a class A misdemeanor.
- Subsection (f) makes hazing causing death or serious physical injury a class B felony.

**Sec 2.** Amends AS 14.33.200(a). Requires school districts to add hazing to current policy against harassment, intimidation, or bullying.

**Sec 3.** Amends AS 14.33.200(b). Concurs with Sec 2 regarding guidelines for current policy.

**Sec 4.** Amends AS 14.33.200(c). Adds hazing to Department of Education and Early Development (DEED) model policy against harassment, intimidation, or bullying.

**Sec 5.** Amends AS 14.33.210. Amends reporting requirements to include hazing. Clarifies that schools are required to report any event sponsored or sanctioned by the school, which relates to the 2007 Supreme Court case *Morse v. Frederick* relating to school jurisdictional issues.

**Sec 6.** Amends 14.33.220(a). Extends protections from retaliation to victims and witnesses of hazing.

**Sec 7.** Amends AS 14.33.220(b). Extends reporting requirements to appropriate school officials to include acts of hazing.

**Sec 8.** Amends AS 14.33.220(c). Extends discipline against those accusing falsely and in bad faith, or providing false information, to include acts of hazing.

**Sec 9.** Amends AS 14.33.230. Extends immunity from suit for good faith whistleblowers to include acts of hazing.

**Sec 10.** Amends AS 14.33.250. Defines “hazing” and “organization” for the purpose of school policy. This definition of “hazing” broadens the criminal definition by including acts that subject students to risk of mental or emotional injury or damage of their property.

# Fiscal Note

State of Alaska  
2013 Legislative Session

Bill Version: SB 91  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: SB091-EED-TLS-4-2-13  
Title: HAZING  
Sponsor: FAIRCLOUGH  
Requester: Senate Education Committee

Department: Department of Education and Early Development  
Appropriation: Teaching and Learning Support  
Allocation: Student and School Achievement  
OMB Component Number: 2796

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
<b>OPERATING EXPENDITURES</b>	<b>FY 2014</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Initial version.

Prepared By:	Susan McCauley, Director	Phone:	(907)465-2857
Division	Division of Teaching & Learning Support	Date:	04/02/2013 05:00 PM
Approved By:	Mike Hanley	Date:	04/03/13
	Commissioner		

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2013 LEGISLATIVE SESSION

BILL NO. SB91

**Analysis**

The proposed legislation adds hazing to current statutory language related to harassment, intimidation, and bullying. It requires districts to include the prohibition of hazing in policy language, provide provisions for the punishment of hazing including suspension and expulsion, and to report data regarding incidences of hazing that result in suspension or expulsion. Additionally, it permits the Department of Education & Early Development (DEED) to provide to school districts policy recommendations, training materials, and internet resources related to hazing.

DEED intends to address these responsibilities through current positions resulting in a zero fiscal note.

**Summary**  
*Hazing in View: High School Students at Risk*

For more information about this research, please contact:

Dr. Mary Madden (207-581-2414) or Dr. Elizabeth Allan (207-581-3166)  
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**Background**

These findings are derived from the National Study on Student Hazing (Allan & Madden, 2008). The analysis is based on survey responses from 11,482 post-secondary students on 53 campuses across the United States and more than 300 interviews with staff and students from 18 of those campuses. Data gathering focused on the nature and prevalence of hazing among students in both secondary and postsecondary settings. Data on high school hazing are derived from college students reflecting back on their high school experiences.

It is not uncommon to find the term hazing used synonymously with bullying. While similarities exist between hazing and bullying, hazing is a term that carries a particular meaning pertaining to certain types of behaviors that occur in the context of groups. More specifically, the term “hazing” refers to any activity expected of someone joining a group (or to maintain full status in a group) that humiliates, degrades or risks emotional and/or physical harm, regardless of the person's willingness to participate.

**Key Findings**

1. Forty-seven percent of students say they were hazed while in high school. This mirrors the results of a 2000 study conducted by Nadine Hoover and Norm Pollard that showed that 48% of high school students belonging to groups experienced hazing.
2. Hazing occurs in range of co-curricular high school activities including: athletics, ROTC, performing arts, band, and others school activities. Additionally, 16% experienced class hazing – meaning an initiation into the high school itself.
3. Hazing behaviors in high school range in nature and can include dangerous and illegal activities. The most frequently reported behaviors were:
  - 28% Associate with specific people and not others
  - 21% Sing or chant by self or selected group members/not related to a game or event
  - 19% Be yelled, screamed, or cursed at by other members of the group
  - 12% Participate in a drinking game
  - 12% Deprive self of sleep
  - 12% Get a tattoo or body piercing
  - 11% Drink large amounts of a non-alcoholic beverage
  - 11% Endure harsh weather conditions without proper clothing
  - 9% Be awakened by other members during the night
  - 8% Make prank telephone calls or harass others
  - 8% Drink alcoholic beverages until the point of getting sick or passing out
4. The mean number of hazing behaviors experienced by males ( $M = 2.4$ ) was significantly higher than females ( $M = 1.5$ ).

5. A gap exists between student experiences of hazing and their recognition of specific behaviors as hazing and/or their willingness to label it as such. Eight out of ten individuals who reported experiencing a specific hazing behavior while in high school do not consider her/himself to have been hazed.
6. Much hazing appears to occur “In View” of adults both in school and in the community. For example, class hazing of new students.

## **Recommendations**

### **Assess school policies to ensure that hazing is recognized as a behavior that is differentiated from bullying and has consequences.**

Most public schools have policies that address bullying and of course these policies are essential. High schools also need to ensure that they have clear policies that accurately define and effectively prohibit hazing. Policies should make clear that hazing can occur regardless of a student’s consent.

### **Reduce the extent to which upperclass students are privileged within the school environment including within student organizations and on athletic teams.**

The research shows that students are at risk for hazing as a new member of the school or of a team or organization. Those who perpetuate the hazing are upperclass students. Their actions, whether real or perceived, tend to be justified by their seniority status, which is often unintentionally reinforced by special privileges, either formal or informal, given to them within a school, team, or student organization. If upperclass students are afforded privileges, it should also be clear that the privileges come with responsibilities. In the case of hazing, it should be made clear that it is a responsibility of all upperclass students to do their part to ensure that hazing does not occur.

### **Educate all teachers, administrators, coaches, organizational advisors, and other school personnel, as well as parents, and community members about hazing.**

Hazing is not the well-kept secret many believe it to be. This study shows that hazing happens in view of adults in the school and in the community. Adults may be inclined to dismiss hazing as nothing more than silly pranks or harmless antics, yet data from this investigation indicate hazing can involve high-risk behaviors that are dangerous, abusive, and illegal. Aside from the fact that hazing itself is illegal in 44 states, hazing is also likely to violate the law through underage drinking and sexual activities where consent is questionable due to the coercive dynamics and peer pressure inherent in hazing. These same dynamics contribute to a group context where embarrassment, humiliation, and degradation can take an emotional toll and lead to what is called the hidden harm of hazing—the emotional scars that can result from the humiliating and degrading aspects of hazing<sup>2</sup>

### **Involve all students in hazing prevention efforts. Introduce these efforts in middle school or earlier and continue the education into and through high school.**

This study shows that students are at risk for hazing as a new member of the school. Therefore, it is important that all students be educated about hazing. Also, some respondents in this study report being hazed prior to high school in association with either a middle school or community activity.

### **Design prevention efforts to be more comprehensive than simply one-time presentations or distribution of anti-hazing policies. Focus on helping all students:**

- Develop an understanding of the power dynamics in order to identify hazing regardless of context;
- Understand the role coercion and groupthink can play in hazing,
- Recognize the potential for harm even in activities they consider to be “low level.”
- Generate strategies for building group unity and sense of accomplishment that do not involve hazing.

- Align group membership behavior with the purpose and values espoused by the school and its associated activities.
- Develop leadership skills students need to intervene on behalf of their peers if hazing behaviors are practiced in their group.
- Develop critical thinking skills needed to make ethical judgments in the face of moral dilemmas.

Findings from this investigation highlight some of the complexities related to hazing. It is clear that students continue to have a limited understanding of the definition of hazing and risks associated with it. This is highlighted by the fact that nearly half of high school students report experiencing a hazing behavior, but 8 out of 10 of these, do not consider themselves to have been hazed. In addition, students who have been hazed tend to dismiss institutional and legal definitions of hazing and minimize the potential harm that can result.

**Focus additional hazing prevention efforts on team coaches, group advisors, and students involved in student groups and athletic teams.**

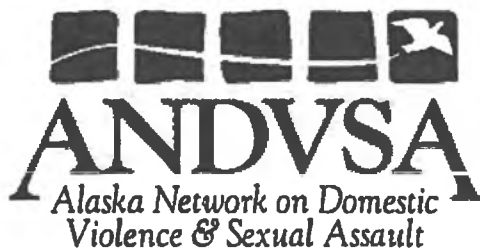
Students involved in athletics and other co-curricular activities are at highest risk for hazing. Therefore, it is important that they receive additional education about what constitutes hazing. As well, students belonging to groups should receive additional guidance and education on how to implement non-hazing traditions and initiations to welcome new members to their groups. Coaches and group advisors need to be educated about signs that may indicate a group is engaging in hazing.

**Send a clear message that hazing will not be tolerated and those engaging in hazing behaviors will be held accountable.**

School administrators need to convey the message that hazing is considered a serious issue and will not be dismissed, minimized, or trivialized as silly pranks, antics, or as a normal part of the school climate. If a hazing event occurs, it is important the consequences are not perceived to be simply a “slap on the wrist” and that the resulting consequences for the group or organization be made public. This reinforces the message that hazing is not tolerated. When students have knowledge of a group caught hazing but fail to hear of consequences, they interpret the silence to mean hazing is not taken seriously.

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Pro Bono Office

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Phone: (907) 747-7545  
Fax: (907) 747-7547

April 4, 2013

Honorable Anna Fairclough  
State Capitol, Room 514  
Juneau, AK 99801

Re: Letter of Support – SB 91 – Hazing

Dear Senator Fairclough:

On behalf of our 18 member programs that comprise the Alaska Network of Domestic Violence & Sexual Assault, thank you for introducing SB 91 – an act relating to hazing.

Hazing, quite simply, is a form of premeditated abuse that is emotionally traumatic, physically dangerous and can be life threatening in certain circumstances. Hazing consists of behaviors that emphasize a power imbalance between new members and existing members of a group or team. Some hazing coined “subtle hazing” is often taken-for-granted or accepted as “harmless” or “meaningless”. However, even subtle hazing involves activities or attitudes that breach reasonable standards of mutual respect and place new members on the receiving end of ridicule, embarrassment, or humiliation tactics.

More severe, and not infrequent forms of hazing, include sexual violations, such as sodomy with objects, physical beatings, and drug and alcohol abuse to the point of overdose. The common thread to all forms of hazing is to instill fear and wrongly teaches that deception, coercion, intimidation and abuse are suitable means for gaining acceptance into a peer group.

Alaska is one of only six states that have yet to criminalize this behavior. In a state that has the dishonorable distinction of leading the nation in domestic violence, sexual violence and child abuse, it is imperative that we send a clear message that hazing is a form of abuse and is not acceptable.

Thank you for your vision in leading the way to address this issue by introducing SB 91.

Sincerely,



Peggy Brown, Executive Director

cc: Lisa Mariotti, Policy Director

Member Programs

Anchorage AWAIC, STAR Barrow AWIC Bethel TWC Cordova CFRC Dillingham SAFE  
Fairbanks IAC Homer SPHH Juneau AWARE Kenai LeeShore Center Ketchikan WISH Kodiak KWRCC  
Kotzebue MFCC Nome BSWG Seward SCS Sitka SAFV Unalaska USAFV Valdez AVV

Dr. Susan Lipkins  
14 Vanderverter Avenue  
Port Washington, New York  
susanlipkins@aol.com  
516.521.2518

March 25, 2012

To Whom It May Concern:

I am writing in support of legislation that makes hazing an illegal act in the state of Alaska. Unfortunately, hazing has become more frequent, more violent and more sexualized in the past decade. Hazing rituals often begin in high school and are then repeated in college and in the military.

Legislation is needed in order to educate students, parents, and school personnel about hazing. Policies must address this issue in order to protect all students in Alaska.

I am a psychologist and the author of Preventing Hazing: How Parents, Teachers and Coaches Can Stop the Violence, Harassment and Humiliation. I am an expert in the field of hazing and in conflict and violence on campus.

Please feel free to contact me should Further information be necessary.

Sincerely,

Dr. Susan Lipkins

REF: SB 91 HAZING

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Will Testify Friday

**Ryan Alsup**, Principal of Juneau Douglas High School, Juneau, AK

[Ryan.alsup@iuneauschools.org](mailto:Ryan.alsup@iuneauschools.org); 907.523.1501

*Testifying in person*

**Emily Sexton**, President of Alaska Association of Student Governments

[esxt@live.com](mailto:esxt@live.com); 388.0307

*Calling from Fairbanks LIO*

**Gary Matthews**, Executive Director of Alaska Association of School Activities, Anchorage, AK

[garym@asaa.org](mailto:garym@asaa.org); 563.3723

*Calling from Anchorage LIO*

**Norm Pollard**, Professor at Alfred University, Alfred, NY

[pollard@alfred.edu](mailto:pollard@alfred.edu); 607.871.2132

*Calling from off-net (out of state)*