

# Bethany Lutheran College Sexual Misconduct Policy

Effective January 2023

Bethany Lutheran College is committed to maintaining high standards of respect and civility, including a learning and working environment that is free from unlawful harassment and discrimination. This Policy outlines the College's commitment to ensuring a campus free from Sexual Misconduct, the steps for recourse for those individuals who have been subject to Sexual Misconduct, and the procedures for determining whether a violation of College Policy occurred. Nothing in this Policy is intended to create a contract between the College and any student, employee, independent contractor, vendor, or other individual or entity.

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# **Bethany Lutheran College Sexual Misconduct Policy**

## **I. INTRODUCTION**

Bethany Lutheran College (the “College”) is committed to maintaining high standards of respect and civility, including a learning and working environment that is free from unlawful harassment and discrimination. Harassment and discrimination, in all its forms, is contrary to God’s moral law, subverts the educational mission of the College, undermines the sense of community, and interferes with the social and spiritual development of students and employees. All members of the College community are expected to engage in behaviors that support the values of the College and that do not infringe upon the rights of others and assist in creating a safe, welcoming and respectful campus environment.

This Policy outlines the College’s commitment to ensuring a campus free from Sexual Misconduct, the steps for recourse for those individuals who have been subject to Sexual Misconduct, and the procedures for determining whether a violation of College Policy occurred. This Policy applies to the following forms of sex discrimination and harassment, which are referred to collectively as “Sexual Misconduct”: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation. For questions regarding the College’s more general nondiscrimination Policy, or regarding allegations of sex discrimination that do not involve Sexual Misconduct, please contact the Manager of Human Resources.

The College will regularly review and evaluate the Policy, including among other things, any changes in legal requirements, and will update the Policy as appropriate when circumstances dictate such action. The Policy is distributed annually to all students and employees of the College and is posted in the following locations: the Employee Handbook, the Student Guidebook; on-line at MyBLC; at all resident assistant stations, student health services, athletic training office, building monitor stations, and Christian Family Counseling. The College will also provide this Policy to any student, employee, or other individual who reports to the College that they have been a victim of Sexual Misconduct.

Bethany Lutheran College is a Christian community that is part of the Evangelical Lutheran Synod. In the area of sexuality, the College expects students to follow Biblical guidelines for intimacy and for sexual relationships. See the Sexuality section of the Standards of Conduct in the Student Guide. While some portions of this Policy may address intimate or sexual activities outside of marriage, such discussions should not be seen as condoning these actions. At the same time, an individual’s engagement in intimate or sexual activities outside of marriage does not excuse Sexual Misconduct carried out against that individual. The College is committed to protecting the members of its community against Sexual Misconduct—regardless of the context in which it arises.

## **II. NOTICE OF NON-DISCRIMINATION**

Bethany Lutheran College does not unlawfully discriminate on the basis of sex, color, age, national origin, marital status, familial status, pregnancy, citizenship, creed, genetic information, disability, veteran status, status with regard to public assistance, membership in a local human rights commission, or other categories protected by law, in the administration of its educational

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policies, admissions policies, and financial aid programs. As permitted by law, Bethany has the right to exercise discretion in employment to employ persons who share and are committed to the Biblical tenets of the Evangelical Lutheran Synod and the values and mission of the College. Bethany has the right to exercise discretion in regards to education, employment, housing or use of facilities, and other school-administered programs which is consistent with the Biblical tenets of the Evangelical Lutheran Synod and the values and mission of the College. The College adheres to the requirements of [Title IX of the 1972 Education Amendments](#), [Sec. 504 of the Rehabilitation Act of 1973](#), and the [ADA policy of 1990](#).

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” The College is required by Title IX and its regulations not to engage in sex discrimination in its education program or activity, including admissions and employment. Sex discrimination is conduct based upon an individual’s sex that excludes an individual from participation in, denies the individual the benefits of, or treats the individual differently, in an education program or activity. Sexual Harassment is a form of sex discrimination. In accordance with Title IX and its regulations, this Policy addresses the College’s prohibition of the following forms of sex discrimination: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation. Sexual Misconduct in any form will not be tolerated by the College. The College will promptly and equitably respond to all reports of Sexual Misconduct in order to take steps to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community.

The Human Resources and Student Affairs offices will undertake educational efforts to inform employees and students of their responsibilities regarding such behavior, as well as how to identify and eliminate potential Sexual Misconduct, and what steps can be taken if instances of Sexual Misconduct are experienced.

Inquiries or complaints about Title IX, sex discrimination, Sexual Harassment, or other forms of Sexual Misconduct may be directed to the College’s Title IX Coordinator. Inquiries or complaints regarding other forms of discrimination may be directed to the Manager of Human Resources.

Ted Manthe  
Title IX Coordinator  
Bethany Lutheran College  
Old Main 236  
Mankato, MN 56001  
Phone: (504) 344-7745  
Email: [titleix@blc.edu](mailto:titleix@blc.edu)

Josh Pederson  
Manager of Human Resources  
Bethany Lutheran College  
Old Main 205  
Mankato, MN 56001  
Phone: (504) 344-7840  
Email: [hr@blc.edu](mailto:hr@blc.edu)

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Inquiries or complaints may also be directed to the U.S. Department of Education's Office for Civil Rights:

The Office for Civil Rights  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Telephone: (800) 421-3481  
Facsimile: (202) 453-6012 TDD#: (800) 877-8339  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
<http://www.ed.gov/ocr>

### **III. SCOPE OF THE POLICY**

This Policy applies to all College community members, including students, employees, faculty, administrators, staff, trustees, volunteers, vendors, independent contractors, applicants for admission or employment, visitors and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the College or on College property. This Policy may also apply to individuals who interact with College community members under certain circumstances. All College community members are required to follow College policies and local, state, and federal law.

This Policy applies to Sexual Misconduct committed by or against a College community member, including conduct that occurs on campus or College property, conduct that occurs at College-sanctioned events or programs that take place off campus, such as study abroad and internships, and off campus conduct that occurs outside the context of a College-sponsored event or program that may cause or threaten to cause an unacceptable disruption at the College or which may interfere with an individual's right to a non-discriminatory educational or work environment.

This Policy applies to Sexual Misconduct within the scope of Title IX, as well as Sexual Misconduct committed by or against a College community member that does not fall within the scope of Title IX. More information about what Sexual Misconduct falls within the scope of Title IX is provided in the section V. Prohibited Conduct below and more information about the process applicable to different types of Sexual Misconduct is provided in the section X. General Provisions for Complaint Resolution Process below.

This Policy applies regardless of the sexual orientation or gender identity of any of the parties. Although the College maintains its right to uphold and apply its religious beliefs with regard to sexual orientation and gender identity, the College has no tolerance for any form of Sexual Misconduct committed against any individual, regardless of the individual's sexual orientation or gender identity. Individuals are strongly encouraged to report all incidents of Sexual Misconduct, even when the individual has a concern that they have engaged in conduct that may violate provisions of the College's Standards of Conduct relating to sexual activity. See section IX(H) Amnesty below for more information.

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## IV. DEFINITIONS

**Complainant** refers to an individual who is alleged to be the victim of conduct that could violate this Policy.

**Respondent** refers to an individual who has been reported to be the perpetrator of conduct that could constitute a violation of this Policy.

**Report** is an account of the Sexual Misconduct that has allegedly occurred that has been provided to the College by the complainant, a third party, or an anonymous source.

**Formal Complaint** is a document filed by a complainant or signed by the Title IX Coordinator alleging a violation of this Policy and requesting that the College investigate the allegation of the Policy violation. A formal complaint begins the complaint resolution process as set forth in section X. General Provisions for Complaint Resolution Process below.

**Title IX Coordinator** is the designated staff member of the College with primary responsibility for coordinating Title IX compliance efforts, and who generally oversees the complaint resolution process, documents the findings and decisions, and maintains official records. For more information regarding the Title IX Coordinator's role, see section VI. Responsibilities of Title IX Coordinator and Title IX Team below.

**Sexual Misconduct** as used in this Policy means the following forms of sex discrimination: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking,<sup>1</sup> and Sexual Exploitation.

## V. PROHIBITED CONDUCT

The College prohibits the following forms of Sexual Misconduct: Title IX Sexual Harassment, Non-Title IX Sexual Harassment, Sexual Exploitation, Sexual Assault, Domestic Violence, Dating Violence, and Stalking, as each term is defined below. Aiding others in acts of Sexual Misconduct also violates this Policy.

### A. Title IX Sexual Harassment

As used in this Policy, Title IX Sexual Harassment includes conduct on the basis of sex that satisfies one or more of the following definitions, when the conduct occurs (1) in the College's education program or activity and (2) against a person in the United States.

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<sup>1</sup> Some instances of Dating Violence, Domestic Violence, and Stalking may not be sexual in nature. For purposes of this Policy, the term "Sexual Misconduct" encompasses all instances of Dating Violence, Domestic Violence, and Stalking (as those terms are defined in this Policy), regardless of whether there is a sexual component to the behavior.

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- A. Title IX Quid Pro Quo Harassment:** Title IX Quid Pro Quo Harassment occurs when an employee of the College, including a student-employee, conditions the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.
- B. Title IX Hostile Environment Harassment:** Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity.

Multiple instances of the following conduct, or other unwelcome conduct on the basis of sex, may constitute Title IX Hostile Environment:

- Repeated and unwelcome sexual flirtations, attention, advances, or propositions;
- Requests for sexual favors;
- Punishing or threatening to punish a refusal to comply with a sexual-based request;
- Offering a benefit (such as a grade, promotion, or athletic participation) in exchange for sexual favors or other verbal or physical conduct of a sexual nature;
- Verbal abuse of a sexual nature or obscene language;
- Gender- or sexually-oriented jokes and comments;
- Non-verbal, verbal or physical harassment directed at an individual or a group of individuals solely on the basis of gender;
- Verbal commentary about an individual's body, sexual innuendo, suggestive commentary about a person's clothing and appearance;
- Displaying derogatory or sexually suggestive pictures or other objects in an office, on the exterior of a residence hall door, or on a computer monitor;
- Visual conduct such as leering or making gestures;
- Unwanted kissing;
- Unwelcome touching of a sexual nature such as patting, pinching, or brushing against another's body;
- Gossip about sexual relations;
- Cyber or electronic harassment.

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The circumstances that may be considered when determining whether conduct was so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity include, but are not limited to:

- The frequency of the conduct.
- The nature and severity of the conduct.
- Whether the conduct was physically threatening.
- The effect of the conduct on the victim's mental or emotional state.
- Whether the conduct was directed at more than one person.
- Whether the conduct arose in the context of other discriminatory conduct.
- Whether the conduct was merely a discourteous, rude, or insensitive statement.
- Whether the speech or conduct deserves the protections of academic freedom.

**C. Sexual Assault, Domestic Violence, Dating Violence, and Stalking**, as those terms are defined below (when such conduct occurs (1) in the College's education program or activity and (2) against a person in the United States.

### *Unwelcome Conduct*

For the purposes of the definitions of Title IX Sexual Harassment and Non-Title IX Sexual Harassment (see below), conduct is **unwelcome** when the individual did not request or invite and regarded it as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that he or she welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct does not necessarily mean that person welcomes other conduct. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident.

### *On the Basis of Sex*

For the purposes of the definitions of Title IX Sexual Harassment and Non-Title IX Sexual Harassment (see below), conduct is **on the basis of sex** when it is sexual in nature or is referencing or aimed at a particular sex.

### *Reasonable Person*

For the purposes of the definitions of Title IX Sexual Harassment and Non-Title IX Sexual Harassment (see below), **reasonable person** means a reasonable person in the shoes of the

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complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

### *Education Program or Activity*

At a minimum, the College's **education program or activity** includes all of the operations of the College, including (1) locations on campus or otherwise owned or controlled by the College, such as residence halls and learning spaces, (2) locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the alleged Sexual Misconduct occurred, such as College athletic events and other College-sponsored off-campus activities, and (3) any building owned or controlled by a student organization that is officially recognized by the College. Whether alleged conduct occurred in the College's education program or activity is a fact specific analysis.

### **B. Non-Title IX Sexual Harassment**

While Title IX requires that the alleged conduct meet a certain threshold before it is considered Title IX Sexual Harassment, the College also prohibits unwelcome conduct on the basis of sex (1) that may not rise to the level of Title IX Sexual Harassment (as defined above), (2) that did not occur in the College's education program or activity, but may nevertheless cause or threaten to cause an unacceptable disruption at the College or interfere with an individual's right to a non-discriminatory educational or work environment, or (3) that did not occur against a person in the United States.<sup>2</sup>

As used in the Policy, Non-Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following definitions.

1. Non-Title IX Quid Pro Quo Harassment: Non-Title IX Quid Pro Quo Harassment occurs when an employee of the College, including a student-employee, conditions the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.
2. Non-Title IX Hostile Environment Harassment: Non-Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex determined by a reasonable person to be so severe or pervasive that it substantially and unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile, or offensive employment or educational environment.

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<sup>2</sup> Conduct cannot constitute both Title IX Sexual Harassment and Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of Title IX Sexual Harassment, then that conduct will not be separately analyzed as Non-Title IX Sexual Harassment.

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Examples of Non-Title IX Hostile Environment Harassment may include the same type of conduct listed above for Title IX Hostile Environment Harassment, when such conduct (1) does not rise to the level of being so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; (2) does not occur in the College's education program or activity; or (3) does not occur against a person in the United States. The terms "on the basis of sex" and "unwelcome conduct" have the same meanings provided above under the definition of Title IX Sexual Harassment.

### **C. Sexual Assault**

Sexual Assault is any actual or attempted sexual contact, including contact with an object, with another person without that person's consent. As used in this Policy, sexual contact includes: intentional contact by the accused with the victim's intimate parts (genital area, groin, inner thigh, buttocks, or breasts), whether clothed or unclothed; touching another with any of these body parts, whether clothed or unclothed; coerced touching by the victim of another's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; or forcing another to touch oneself with or on any of these body parts. Sexual Assault includes but is not limited to an offense that meets any of the following definitions:

- Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or oral contact with the sex organ of another person, without the consent of the victim.
- Fondling: the touching of the intimate parts (including the genital area, groin, inner thigh, buttocks, or breast) of another person for the purpose of sexual gratification, without the consent of the victim.
- Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory rape: sexual intercourse with a person who is under the statutory age of consent; in Minnesota the age of consent is 16.

While Title IX requires that the alleged conduct occurs in a College education program or activity against a person in the United States, the College also prohibits Sexual Assault that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, College property, or in a College program or activity, (2) substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or (3) create a hostile environment for community members on campus, College property, or in a College program or activity.

Sexual Assault is a crime under Minnesota law. See [Minnesota Statutes Section 609.341 et seq.](#) for applicable criminal law definitions of criminal sexual conduct.

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**Consent** is words or overt actions by a person in advance clearly communicating a freely given present agreement to participate in a particular sexual contact or activity. Words or overt actions clearly communicate consent when a reasonable person in the circumstances would believe those words or actions indicate a willingness to participate in a mutually agreed-upon sexual contact or activity. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining consent. It is the responsibility of the person initiating the specific sexual contact or activity to obtain consent for that contact or activity.

The definition of consent is subject to the following:

- Consent is active, not passive. Silence or the absence of resistance or saying “no,” in and of themselves, cannot be interpreted as consent.
- Consent to any one form of sexual contact or activity does not, by itself, constitute consent to any other forms of sexual contact or activity.
- Previous relationships or prior consent does not, by itself, constitute consent to future sexual contact or activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may be factors in determining whether there was consent.
- Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was consent.
- Consent can be withdrawn at any time. When consent is withdrawn, the sexual contact or activity for which consent was initially provided must stop.
- The College places limitations on romantic or sexual relationships between faculty, staff, and students, even when it may appear that consent is present.
- Consent cannot be procured, expressly or implicitly, by use of physical force or the threat thereof, such as hitting, punching, slapping, kicking, restraining, choking, or brandishing or using any weapon, or **coercion**, as that term is defined below.
- An individual known to be or who should be known to be **incapacitated**, as that term is defined below, cannot consent to sexual contact or activity initiated by another individual.
- Use of alcohol or other drugs will never function to excuse behavior that violates this Policy.
- A person who is not of legal age (16 in Minnesota) cannot consent to sexual contact or activity.

**Coercion** is conduct or intimidation that would compel an individual to do something against their will by: (1) the use of physical force, (2) threats of severely damaging consequences, or (3) pressure that would cause a reasonable person to fear severely damaging consequences. Coercion is more than an effort to persuade or attract another person to engage in sexual activity. Coercive behavior differs from seductive behavior based on the degree and type of pressure someone uses to obtain consent from another.

**Incapacitation** means the physical and/or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With

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respect to incapacitation due to the influence of drugs or alcohol, incapacitation requires more than being under the influence of drugs or alcohol; a person is not incapacitated just because they have been drinking or using drugs. Where drugs and/or alcohol are involved, incapacitation is determined based on the facts and circumstances of the particular situation looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation, whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent, and whether such condition was known or reasonably known to the respondent or a reasonable sober person in respondent's position. Use of drugs or alcohol by the respondent is not a defense against allegations of Sexual Misconduct.

### **D. Dating Violence**

Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For purposes of this Policy, Dating Violence includes, but is not limited to, sexual or physical abuse, such as physical harm, bodily injury, or criminal assault, or the threat of such abuse. For purposes of this Dating Violence definition, consent will not be a defense to a complaint of physical abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

While Title IX requires that the alleged conduct occurs in a College education program or activity against a person in the United States, the College also prohibits Dating Violence that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, College property, or in a College program or activity, (2) substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or (3) create a hostile environment for community members on campus, College property, or in a College program or activity.

Dating Violence also is prohibited by Minnesota law. Minnesota law prohibiting domestic abuse includes physical harm, bodily injury, or assault committed between persons involved in a significant romantic or sexual relationship. [See Minnesota Statutes Section 518B.01; 609.2242.](#)

### **E. Domestic Violence**

For purposes of this Policy, Domestic Violence includes a felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim under the Minnesota family or domestic violence laws (or if the crime occurred outside of Minnesota, the jurisdiction in which the crime occurred).

Domestic Violence is prohibited by Minnesota law. See [Minnesota Statutes Section 518B.01; 609.2242.](#) While not exhaustive, the following are examples of conduct that can constitute Domestic Violence involving a spouse or intimate partner under Minnesota law: (1) physical

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harm, bodily injury or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats, criminal sexual conduct, or interference with an emergency call.

For purposes of this Domestic Violence definition, consent will not be a defense to a complaint of physical abuse.

While Title IX requires that the alleged conduct occurs in a College education program or activity against a person in the United States, the College also prohibits Domestic Violence that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, College property, or in a College program or activity, (2) substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or (3) create a hostile environment for community members on campus, College property, or in a College program or activity.

### **F. Stalking**

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or other people's safety, or to suffer substantial emotional distress.

- Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through others, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.
- For purposes of this definition, not all communication about a person will be considered to be directed at that person.
- Reasonable person means a reasonable person in the victim's circumstances.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

Stalking behavior may include, but is not limited to:

- Repeated, unwanted and intrusive communications by phone, mail, text message, email and/or other electronic communications, including social media.
- Repeatedly leaving or sending the victim unwanted items, presents or flowers.
- Following or lying in wait for the victim at places such as home, school, work or recreational facilities.
- Making direct or indirect threats to harm the victim or the victim's children, relatives, friends or pets.
- Damaging or threatening to damage the victim's property.
- Repeated posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth that would cause a person to feel threatened or intimidated.
- Unreasonably obtaining personal information about the victim.

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While Title IX requires that the alleged conduct occurs in a College education program or activity against a person in the United States, the College also prohibits Stalking that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless (1) have continuing adverse effects on campus, College property, or in a College program or activity, (2) substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or (3) create a hostile environment for community members on campus, College property, or in a College program or activity.

Stalking is also prohibited by Minnesota law. [See Minnesota Statutes Section 609.749](#). As defined by Minnesota law, Stalking means "to engage in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim."

### **G. Sexual Exploitation**

Sexual Exploitation occurs when an individual takes sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, without consent.<sup>3</sup> Sexual Exploitation may include, but is not limited to:

- Intentional and repeated invasion of sexual privacy without consent (e.g., walking into the other person's room or private space without consent);
- Prostituting another person;
- Taking of or distribution of photographs/images, video or audio-recording, or electronically broadcasting (e.g., with a web cam) a sexual activity without consent;
- Intentional removal or attempted removal of clothing covering an individual's intimate parts without consent.
- Intentionally allowing others to view/hear a sexual encounter (such as letting individuals hide in the closet or watch consensual sex) without consent;
- Engaging in voyeurism without consent;
- Ejaculating on another person without consent;
- Viewing or permitting someone else to view another's sexual activity or intimate body parts, in a place where that person would have a reasonable expectation of privacy, without consent;
- Knowingly transmitting an STI (sexually transmitted infections) or HIV to another person without that person's knowledge and consent;
- Exposing one's genitals or breasts in non-consensual circumstances;

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<sup>3</sup> Conduct cannot constitute both (1) Sexual Exploitation and (2) Title IX Sexual Harassment or Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of hostile environment harassment pursuant to either the Title IX Sexual Harassment or Non-Title IX Sexual Harassment definition, then that conduct will not separately be analyzed as Sexual Exploitation.

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- Inducing another person to expose his/her genitals or breasts in non-consensual circumstances;
- Distributing or displaying pornography to another in non-consensual or unwelcomed circumstances.

### **H. Retaliation and Interference with Process**

Retaliation and Interference with Process is any act of intimidation, threat, coercion, or discrimination or any other adverse action or threat thereof against any individual for the purpose of interfering with any right or privilege secured by Title IX, its regulations, or this Policy or because the individual 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 Policy. Encouraging or assisting others to engage in retaliation or to interfere with the process are also considered Retaliation/Interference with Process and violate this Policy. While the College does not prohibit the parties from discussing the allegations in a formal complaint, acts that could constitute Retaliation and Interference with Process may include, but are not limited to: acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy; acts or comments that are intended to influence whether someone participates in the complaint resolution process, including the live hearing; acts or comments intended to embarrass the individual; adverse changes in employment status or opportunities; adverse academic action; and adverse changes to academic, educational, and extra-curricular opportunities. Retaliation and Interference with Process may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation and Interference with Process may be present against a person even when the person's allegations of Sexual Misconduct are unsubstantiated.

The College is committed to protecting the rights of the complainant, the respondent, and anyone else involved in the complaint resolution process. Any conduct constituting Retaliation or Interference with Process is a violation of this Policy, which is subject to disciplinary action up to and including termination of employment or expulsion. Concerned individuals should report acts of retaliation to the Title IX Coordinator. For more information, see section XIII. Complaints of Related Misconduct below.

### **I. Consensual Relationships Between Faculty, Staff, and Students**

The College has a Consensual Relationship Policy that places limitations on romantic or sexual relationships between faculty, staff, and students, even when it may appear that consent is present. The Consensual Relationship Policy can be found in the Faculty Staff Handbook maintained by the Manager of Human Resources.

# **Bethany Lutheran College Sexual Misconduct Policy**

## **VI. RESPONSIBILITIES OF TITLE IX COORDINATOR AND TITLE IX TEAM**

The College's Title IX coordinator is the designated representative with primary responsibility for coordinating the College's efforts to end Sexual Misconduct, prevent its recurrence, and address its effects. The Title IX Coordinator oversees and monitors the College's overall compliance with Title IX-related policies and developments; the implementation and oversight of complaint resolution processes, including review, investigation, and adjudication of formal complaints of Sexual Misconduct (as outlined in the section XI Sexual Misconduct Complaint Resolution Procedures below); the provision of educational materials and training for the campus community; and monitoring all other aspects of the College's Title IX compliance. These responsibilities include, but are not limited to:

- Ensuring College policies and procedures and relevant state and federal laws are followed;
- Informing any individual, including a complainant, a respondent, or another individual, about the procedural options and processes used by the College, and about resources available at the College and in the community;
- Training and assisting any College employees regarding how to respond appropriately to a report of sex discrimination or Sexual Misconduct;
- Monitoring full compliance with all procedural requirements and time frames outlined in this Policy;
- Evaluating allegations of bias or conflict of interest relating to this Policy;
- Determining whether grounds for appeal under this Policy have been properly stated;
- Ensuring that appropriate training, prevention and education efforts, and periodic reviews of the College's climate and culture take place;
- Coordinating the College's efforts to identify and address any patterns or systemic problems revealed by reports and formal complaints;
- Assisting in answering questions related to this Policy;
- Recordkeeping of all incidents reported to the Title IX Coordinator; and
- Complying with written notice requirements of the Violence Against Women Act.

The College's Title IX Team includes the Title IX Coordinator, as well as appointed staff and faculty designees who may also be called upon to investigate or adjudicate formal complaints, review appeals, and/or facilitate informal resolutions to formal complaints. These team members include the Manager of Human Resources, the Vice President of Student Affairs, Investigators, Adjudicators, and Legal Counsel to the Cabinet. See section XV Resources at the end of this document for list and contact information.

The Title IX Coordinator may appoint a designee to fulfill the functions of the Coordinator under this Policy. When this Policy refers to actions of the Title IX Coordinator, these actions may be fulfilled by the Title IX Coordinator or the Title IX Coordinator's designee. The College also reserves the right to outsource actions under this Policy to third parties, including actions of the Title IX Coordinator, investigator(s), Title IX Hearing Panel/adjudicator(s), and appeal officer(s).

# Bethany Lutheran College

## Sexual Misconduct Policy

### VII. CONFIDENTIALITY

The College encourages individuals who have experienced Sexual Misconduct to talk to someone about what happened. Different people on campus have different abilities to maintain confidentiality and privacy when allegations are reported to them. In making the decision about whom to contact for support and information, it is important to understand that most College employees are not confidential resources, and are obligated to report to the College any information they receive about Sexual Misconduct. Employees and students are encouraged to ask about a person's ability to maintain confidentiality and privacy before offering any information about alleged incidents.

#### A. Confidential Communications and Resources

The College recognizes that some individuals may wish to keep their concerns confidential. Confidential communications are those communications which cannot be disclosed to another person, without the reporter's consent, except under very limited circumstances such as allegations involving the physical abuse, sexual abuse, or neglect of a child (under the age of 18) or vulnerable adult or an imminent threat to the life of any person. Individuals who desire the details of Sexual Misconduct to be kept confidential should speak with a medical professional, professional counselor, minister or other pastoral counselor, or trained victims' advocate. The College's on campus confidential resources are the campus nurse and faculty or staff serving as pastoral counselors that are formally trained and ordained clergy, Called by the College, and granted certain pastoral privileges.

On campus:

Don Moldstad\*  
Director of Spiritual Life/Chaplain  
111 Trinity Chapel  
[donm@blc.edu](mailto:donm@blc.edu)  
Office: (507) 344-7312  
Cell: (507) 387-5456

Doyle Holbird\*  
Professor, Biology  
208 Meyer Hall  
[dholbird@blc.edu](mailto:dholbird@blc.edu)  
Office: (507) 344-7753

\*These confidential resources serve in multiple roles on campus. If you are seeking assistance from one of the confidential resources in their role as a confidential resource, you should contact them through the office contact information listed above and should make clear prior to disclosing any information that you are seeking their assistance as a confidential resource. Students should know that professors cannot serve as a confidential resource for students who they are currently teaching, and if they receive information in the course of their duties other than in a spiritual capacity, they may be required to report it.

**Personal Counseling:** The College maintains an on campus Personal Counseling Center staffed by CFS – Christian Family Solutions counselors. Students and employees can request an appointment with a CFS counselor by calling 1-800-438-1772 or on-line at <https://appointment.christianfamilysolutions.org/request-appointment>.

## **Bethany Lutheran College Sexual Misconduct Policy**

**Student Health Services:** The on-campus Express Care Clinic operated by Mayo Clinic Health System is staffed Monday –Friday from 7:45 AM – 9:45 AM when classes are in session. Students may walk-in for a no-charge appointment. The Express Care Clinic is located at Luther Hall 105.

Off campus:

- CADA, an off campus victim service agency  
(800) 477-0466 or (507) 625-3966  
24 hours a day/7 days a week
  
- *RAINN (Rape, Assault, and Incest National Network)*  
<https://www.rainn.org/>  
(800) 656-HOPE  
24-hour hotline; free and confidential

A person who speaks to a confidential resource should understand that if the person does not report the concern to the College, the College will be unable to provide certain supportive/interim measures, conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential resource may later decide to file a formal complaint with the College or report the incident to local law enforcement.

### **B. Non-Confidential Communications**

Non-confidential communications are those communications with any College employee who is not a confidential resource as identified above. Only confidential resources can promise confidentiality. All other College employees who become aware of incidents or allegations of Sexual Misconduct have a responsibility to report the matter to the Title IX Coordinator. College employees who are not confidential resources will strive to remind an individual of their reporting obligations before the individual has disclosed a situation that requires reporting to the Title IX Coordinator.

Although most College employees cannot promise confidentiality, the College is committed to protecting the privacy of individuals involved in a report of Sexual Misconduct. Allegations of policy violations will be considered private and will only be shared with other College employees on a need to know basis, as permitted by law. The College will keep confidential the identity of any individual who has made a report or filed a formal complaint alleging a violation of this Policy, as well as any complainant, respondent, and witness, except as permitted by law or to carry out the complaint resolution process pursuant to this Policy. Allegations of Sexual Misconduct will not be shared with law enforcement without the consent of the individual who has alleged the sexual misconduct, unless the allegations relate to physical abuse, sexual abuse, or neglect of a child under the age of 18 (see section IX(C) Mandatory Reporting Concerning Minors below for more information) or unless compelled to do so pursuant to a subpoena or court order.

## **Bethany Lutheran College Sexual Misconduct Policy**

In addition, although the College will strive to protect the privacy of all individuals involved to the extent possible consistent with the College's legal obligations, the College may be required to share information with individuals or organizations outside the College under reporting or other obligations under federal and state law, such as reporting of Clery Act crime statistics and mandatory reporting of child abuse and neglect. In addition, if there is a criminal investigation or civil lawsuit related to the alleged misconduct, the College may be subject to a subpoena or court order requiring the College to disclose information to law enforcement and/or the parties to a lawsuit. In these cases, personally identifying information will not be reported to the extent allowed by law and, if reported, affected students will be notified consistent with the College's responsibilities under FERPA, as allowed by law.

### **C. Requesting Confidentiality or Non-Action**

When the College receives a report of Sexual Misconduct, it has a legal obligation to respond in a timely and appropriate manner. Making a report to the College does not require an individual to begin or participate in the complaint resolution process or to report to local law enforcement. However, based on the information gathered, the College may determine that it has a responsibility to move forward with the complaint resolution process (even without the participation of the complainant). Individuals may request confidentiality or that no action be taken against the respondent at the time they report an alleged incident. The Title IX Coordinator will evaluate the request based upon several factors, including:

- The seriousness of the alleged misconduct;
- The respective ages and roles of the complainant and respondent;
- The increased risk that the respondent will commit additional acts of Sexual Misconduct or other violence, such as:
  - Whether there have been other Sexual Misconduct complaints about the same respondent;
  - Whether the respondent has a history of arrests or records from a prior school indicating a history of Sexual Misconduct;
  - Whether the respondent threatened further Sexual Misconduct or other violence against the complainant or others;
  - Whether the Sexual Misconduct was committed by multiple respondents;
- Whether the Sexual Misconduct was perpetrated with a weapon;
- Whether the College possesses other means to obtain relevant evidence of the Sexual Misconduct (e.g., security footage, eyewitness, physical evidence); and
- Whether the complainant's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol, at a given location or by a particular group).
- The extent of any threat to the College community.

The College will take all reasonable steps to respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation made by the complainant, however, the scope of the response by the College may be impacted or limited based on the nature of the complainant's request. The College will likely be unable to conduct an investigation into the

## **Bethany Lutheran College Sexual Misconduct Policy**

particular incident or to pursue disciplinary action against the respondent and also maintain confidentiality.

The College will strive to accommodate the complainant's requests for confidentiality or non-action in most cases, to the extent possible consistent with the College's legal obligations. There may be times when, in order to provide a safe, non-discriminatory environment for all students and employees, the College may not be able to honor a complainant's request for confidentiality or non-action. The presence of one or more of the factors above could lead the College to move forward with a complaint resolution process (even without the participation of the complainant). If the Title IX Coordinator determines that it cannot maintain a complainant's confidentiality or request for no action, the Title IX Coordinator will inform the complainant prior to starting a complaint resolution process. In such cases, the Title IX Coordinator may, at the complainant's request, communicate to the respondent that the complainant asked the College not to investigate and that the College determined it needed to do so. A complainant can choose not to participate in any complaint resolution process.

In instances where the College moves forward with a complaint resolution process without the participation of the complainant, the complainant will have the same rights as provided to a complainant under this Policy, even if the complainant did not sign the formal complaint.

### **D. Clery Act Reporting and Timely Warning**

The College is obligated to provide the College community with general information regarding incidents of sexual violence and other crimes occurring on campus. However, publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and daily crime log, will not include names or other information that may personally identify either party, to the extent permitted by law. As required by state and federal law, the College includes statistics about certain offenses in its annual security reports and provides those statistics to the United States Department of Education and the Minnesota Office of Higher Education in a manner that does not include any personally identifying information about individuals involved in an incident. To ensure that a complainant's and respondent's personally identifying information will not be included in publicly available recordkeeping, the Title IX Coordinator and/or Director of Campus Security will describe the alleged incidents by removing the complainant's and respondent's names and any other identifiers that would enable the public to identify either party in the context of the incident report.

In addition, the Clery Act requires the College to issue a crime alert (timely warning) to the campus community about certain reported offenses which may represent a serious or continuing threat to students and employees. The timely warning may include that an incident has been reported, general information surrounding the incident, and how incidents of a similar nature might be prevented in the future. The timely warning will not include any information that identifies the complainant.

Minnesota law, Minn. Stat. 135A.15, requires institutions to collect statistics, without inclusion of any personally-identifying information, regarding the number of reports of Sexual Assault received by an institution and the number of types of resolutions. Data collected for purposes of

## **Bethany Lutheran College Sexual Misconduct Policy**

submitting annual reports containing those statistics to the Minnesota Office of Higher Education under Minn. Stat. 135A.15 shall only be disclosed to the complainant, persons whose work assignments reasonably require access, and, at the complainant's request, police conducting a criminal investigation. Nothing in this paragraph is intended to conflict with or limits the authority of the College to comply with other applicable state or federal laws.

### **VIII. IMMEDIATE AND ONGOING ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT**

The College will support any person adversely impacted by Sexual Misconduct. Both the College and the Mankato community provide a variety of resources to assist and support individuals who have experienced Sexual Misconduct or are affected by allegations of Sexual Misconduct. These resources, both immediate and ongoing, are available to all persons irrespective of their decision to report to the College or to law enforcement.

Support services that may be available include, but are not limited to, connecting the individual with appropriate, fair and respectful on campus and off campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and support services; making changes to academic, living, transportation, and/or working arrangements; assistance in filing a criminal complaint; and providing information about restraining orders and other available protections and services. Additional information about ongoing assistance is in the section X(G) Supportive/Interim Measures section below. To receive information about obtaining support services, individuals should contact the Title IX Coordinator or a confidential resource. The College will provide written notification to affected individuals about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the College and in the community.

A complete description of the College's and community's resources, both confidential and non-confidential, and additional information regarding what to do if you experience Sexual Misconduct is provided in the section XV Resources at the end of this Policy and on the College's website. Individuals who believe they have been subjected to any form of Sexual Misconduct are encouraged to seek support from these resources.

### **IX. REPORTING SEXUAL MISCONDUCT**

Individuals have several options for reporting allegations of Sexual Misconduct. Reports may be submitted in person, via phone, online, mail, or via email. Reports may be made at any time, including non-business hours by phone, email, mail, or the College's website.

# Bethany Lutheran College Sexual Misconduct Policy

## A. Reporting to the College

The College encourages anyone who has experienced or knows of Sexual Misconduct to report the incident to the College by contacting the following:

- Ted Manthe, V.P. Student Affairs  
Title IX Coordinator  
Bethany Lutheran College  
700 Luther Drive  
Mankato, MN 56001  
Phone: (504) 344-7745  
Email: [titleix@blc.edu](mailto:titleix@blc.edu)
- Campus Security  
Phone: (507) 344-7888  
Email: [securitydirector@blc.edu](mailto:securitydirector@blc.edu)
- Joshua Pederson, Manager of Human Resources  
Phone: (507) 344-7840  
email: [joshua.pederson@blc.edu](mailto:joshua.pederson@blc.edu)
- Renee Tatge, Director of Residential Life  
Phone: (507) 344-7826  
email: [renee.tatge@blc.edu](mailto:renee.tatge@blc.edu)
- Online Reporting Form  
<https://forms.blc.edu/title-ix-reporting/>

Reports to the College should include as much information as possible, including the names of the complainant, the respondent, and any other involved individuals, and the date, time, place, and circumstances of the incidents, to enable the College to respond appropriately.

Upon receiving a report of Sexual Misconduct, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures with or without the filing of a formal complaint and to explain the process of filing a formal complaint. When a student or employee reports to the College that they have been a victim of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, whether the offense occurred on or off campus, the College will provide the student or employee with a written explanation of the student's or employee's rights and options, along with the procedures the victims should follow.

If an individual has made a report to a College employee who is not a confidential resource and has not yet heard from the Title IX Coordinator, please report directly to the Title IX Coordinator.

# Bethany Lutheran College Sexual Misconduct Policy

## **B. Employee Reporting Obligations**

In order to enable the College to respond effectively and to prevent future instances of Sexual Misconduct, all College employees who are not confidential resources, who obtain or receive information regarding a possible violation of this Policy must report that information to the Title IX Coordinator. Student employees who receive such information in the course of their work position or duties also must report the information to the Title IX Coordinator. Such report should be made as soon as possible and should include all relevant details needed to assess the situation. This includes, to the extent known, the names complainant, respondent, and other individuals involved in the incident, as well as relevant facts, including the date, time, and location.

Employees who receive such reports should not attempt to “investigate” the allegation or require the reporting individual to provide all of the details surrounding the alleged Sexual Misconduct. To the extent the reporting individual provides detail, that information should be provided to the Title IX Coordinator. Upon receiving a report of alleged or possible Sexual Misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken consistent with the complaint resolution process and this Policy.

College employees who are not confidential resources and receive a report of Sexual Misconduct should bring the report directly to the Title IX Coordinator and should not share information about the report with any other individual. If the employee is uncertain whether the information should be reported to the Title IX Coordinator, the employee should seek guidance from the Title IX Coordinator before providing the Title IX Coordinator with any identifiable information regarding the report. Failure of a College employee who is not a confidential resource to report allegations of Sexual Misconduct to the Title IX Coordinator may result in disciplinary action.

## **C. Mandatory Reporting Concerning Minors**

Any College employee who becomes aware of the abuse (physical or sexual) or neglect of a child under the age of 18 on campus or in connection with any College event, program, or activity must report it immediately to Campus Security and the Title IX Coordinator (Note: This may include PSEO or on-line students who are under the age of 18). In addition, as a mandatory reporter under Minnesota law, such individual must also immediately report the abuse or neglect to the local welfare agency, agency responsible for assessing or investigating the report, police department, or county sheriff.

## **D. Online and Anonymous Reporting**

Reports of Sexual Misconduct may be made via the [online reporting form](https://forms.blc.edu/title-ix-reporting/) found at (<https://forms.blc.edu/title-ix-reporting/>). Individuals who file a report online can choose to do so *anonymously*. The individual making the report is encouraged to provide as much detailed information as possible to allow the College to investigate the report and respond as appropriate. The College will likely be limited in its ability to investigate an anonymous report unless sufficient information is furnished to enable the College to conduct a meaningful investigation.

## **Bethany Lutheran College Sexual Misconduct Policy**

### **E. Reporting to Law Enforcement**

Some types of Sexual Misconduct prohibited by this Policy, such as Sexual Assault, are also crimes. Individuals who believe they may have been subjected to criminal Sexual Misconduct are strongly encouraged to notify local law enforcement authorities or Campus Security.

Individuals who would like to report Sexual Misconduct to law enforcement should contact the Mankato Police Department by calling 911 or (507) 387-8780. This phone number is a call directly to the Police Department. Campus authorities will assist an individual in notifying law enforcement authorities and will also accompany the complainant to the police station upon request. If you'd like assistance in notifying law enforcement, please contact the Title IX Coordinator or Campus Security.

Individuals may file a criminal complaint and a Title IX complaint simultaneously. Reporting to law enforcement is not necessary for the College to proceed with a complaint resolution process.

Minnesota law provides individuals who report crimes to law enforcement with certain rights. For further information, consult Crime Victim Rights, a publication of the Minnesota Department of Public Safety, or [Minnesota Statutes Chapter 611A](#).

### **F. Protective Orders, Criminal No-Contact Orders, and College No-Contact Directives**

Individuals who would like to avoid contact with another individual have several options available to them, including seeking a harassment restraining order, protective order from a civil court, or requesting a no-contact order from the College.

Harassment restraining orders and orders for protection are legal orders issued by a state court which forbid someone from harassing and/or making contact with another. A harassment restraining order is a court order issued against an alleged harasser, regardless of the relationship between the alleged harasser and the alleged victim, which orders the harasser to stop harassing the victim and/or to have no contact with the victim. An order for protection is a civil court order that protects one family or household member from domestic abuse by another family or household member. The College does not issue harassment restraining orders or orders for protection, but one can be obtained through making an application to the Blue Earth County District Court. Petition forms to apply for harassment restraining orders or to seek an order for protection are available at the Blue Earth County Government Center at 204 S. 5th Street, Mankato, MN 56001. Forms are also available [online from the Minnesota Judicial Branch website](#). Forms must be submitted to the Court Administrator at the Blue Earth Government Center during business hours. Individuals seeking a harassment restraining order or an order for protection may obtain assistance from the Blue Earth County Court Administrator's Office at 204 S. 5th Street, Mankato, MN 56001. Individuals seeking a harassment restraining order or an order for protection may seek assistance over the phone with the MN Courts Self-Help Center at (651) 259-3888. For more information and assistance, individuals should contact the Title IX Coordinator at (504) 344-7745 or [titleix@blc.edu](mailto:titleix@blc.edu).

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A no-contact directive is a College-issued directive that prohibits one or both parties from communication or contact with another. No-contact directives may be mutual or one-sided. Generally, no-contact directives issued prior to the conclusion of the complaint resolution process will be mutual and serve as notice to both parties that they must not have verbal, electronic, written, or third party communication with one another. To request a no-contact directive from the College, individuals should contact Ted Manthe, Title IX Coordinator, (507) 344-7745, Office: 236 Old Main, [titleix@blc.edu](mailto:titleix@blc.edu). A College no-contact directive may be enforced by contacting Campus Security or the Title IX Coordinator.

The College is responsible for honoring requests for information about available options for orders for protection, restraining orders, and no-contact orders and has a responsibility to comply with and enforce such orders. To request additional information about available options for orders for protection, restraining orders, and no-contact orders, contact the Title IX Coordinator. An order of protection and/or harassment restraining order can be enforced by contacting local law enforcement. The College will fully cooperate with any harassment restraining order and/or order for protection issued by a criminal, civil, or tribal court.

### **G. Crime Victims Bill of Rights**

Pursuant to state law, victims of crime must be informed of their rights under the Crime Victims Bill of Rights. The following is a summary of crime victims' rights under Minnesota law.

When a crime is reported to law enforcement, victims have the right to:

- Request that their identity be kept private in reports available to the public;
- Be notified of crime victim rights and information on the nearest crime victim assistance program or resource;
- Apply for financial assistance for non-property losses related to a crime;
- Participate in prosecution of the case, including the right to be informed of a prosecutor's decision to decline prosecution or dismiss their case;
- Protection from harm, including information about seeking a protective or harassment order at no cost;
- Protection against employer retaliation for taking time off to attend protection or harassment restraining order proceedings; and
- Assistance from the Crime Victims Reparations Board and the Commissioner of Public Safety.

Victims of domestic abuse also have the right to terminate a lease without penalty. Victims of Sexual Assault have the right to undergo a confidential Sexual Assault examination at no cost, make a confidential request for HIV testing of a convicted felon, and are not required to undergo a polygraph examination in order for an investigation or prosecution to proceed. In cases of domestic abuse and violent crime where an arrest has been made, victims also have the right to be provided notice of the release of the offender, including information on the release conditions and supervising agency.

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Complete information about crime victims' rights can be found at:

<https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-rights.aspx>.

Information about victims' rights also is available from the Title IX Coordinator or from the Minnesota Department of Public Safety, Office of Justice Programs, and in [Minnesota Statutes Chapter 611A](#).

### **H. Amnesty**

The College encourages the reporting of incidents of Sexual Misconduct. At times, complainants or witnesses may be hesitant to report to College officials or to participate in a Sexual Misconduct complaint resolution process because they fear that they themselves may be accused of Policy violations, such as intoxication due to alcohol consumption or a violation of the Sexuality section of the Standards of Conduct, at the time of the incident. It is in the best interests of the Bethany community that incidents are reported to College officials. Therefore, the College will not discipline individuals who make a good faith report to the College or individuals who participate in a complaint resolution process for any violation of the College's drug and alcohol policies or sexuality policies in which they might have engaged in connection with the reported incident, except as outlined in this section. The College, however, reserves the right to require individuals to participate in training or educational programming designed to reduce risk and promote health and wellbeing. The participation in such training or educational programming will not be reflected on a community member's official records. In addition, amnesty may not be extended in instances where any other individual is harmed by the conduct constituting a violation of another College policy, where an employee who engaged in a violation of another College policy holds a leadership role on campus, including a leadership role over students or employees, or where an employee is engaged in a violation of another College policy with a student. In those cases the College may still pursue disciplinary action for the alleged violation of other College policies.

### **I. Emergency Removal**

The College reserves the right to remove a student respondent, in whole or in part, from the College's education program or activity on an emergency basis. Prior to removing the student respondent on an emergency basis, the College will undertake an individualized safety and risk analysis and will determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct justifies removal. If a student respondent is removed on an emergency basis, the College will provide the student respondent with notice and an opportunity to challenge the decision immediately following the removal.

### **J. Administrative Leave**

The College reserves the right to place a non-student employee respondent on administrative leave during the pendency of the complaint resolution process.

## **Bethany Lutheran College Sexual Misconduct Policy**

### **X. GENERAL PROVISIONS FOR COMPLAINT RESOLUTION PROCESS**

When the College receives a formal complaint of a potential Policy violation, the College will promptly and equitably respond to the formal complaint pursuant to the guidelines and procedures set forth below. The complaint resolution process treats the parties equitably, provides complainant an opportunity to file a formal complaint alleging a violation of the Policy and an opportunity to present evidence of the allegations prior to a decision on responsibility, provides respondent notice of the allegations and an opportunity to respond to and present evidence related to those allegations prior to a decision on responsibility, and provides both parties an opportunity to challenge the credibility of the other party and any witnesses prior to a decision on responsibility. In cases involving allegations of Sexual Misconduct that is not Title IX Sexual Harassment, the ability to challenge credibility is accomplished through the parties' ability to suggest questions to be asked of the other party and witnesses during the investigation, through the Written Response Statements in response to the investigation report, and through the Written Rebuttal Statements in response to the other party's Written Response Statement as discussed in section XI. Sexual Misconduct Complaint Resolution Procedures below.

Each complaint resolution process will require an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties. The College will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The College will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that party's voluntary, written consent to do so for a complaint resolution process.

This Policy provides different procedures depending on the particular circumstances of a case, including the type of Sexual Misconduct that is alleged. Upon receiving a formal complaint, the Title IX Coordinator will make a preliminary determination of the procedures that will apply to the complaint resolution process. The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information at the end of the investigation phase, the Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

If a formal complaint includes both an allegation of Title IX Sexual Harassment and an allegation of Sexual Misconduct that does not meet the definition of Title IX Sexual Harassment, the College reserves the right to process the allegations in the same complaint resolution process or to separate the allegations into separate complaint resolution processes.

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## **A. Trained Officials**

The complaint resolution process will be conducted by individuals who do not have a conflict of interest or bias for or against complainants or respondents generally or for or against the individual complainant or respondent. In addition, those individuals will receive annual training on the definition of Title IX Sexual Harassment; the scope of the College's education program or activity; how to conduct an investigation and complaint resolution process, including hearings, appeals, and informal resolution processes, as applicable; how to serve impartially, including by avoiding prejudgment of the facts at interest, conflicts of interest, and bias; issues related to sexual harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking; and how to conduct an investigation and decision-making process that protects the safety of all and promotes accountability. Investigators will receive training on issues of relevance to create an investigation report that fairly summarizes relevant evidence. Title IX Hearing Panel members will receive training on any technology to be used at a live hearing and issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. The training is free of bias such as sex stereotypes or generalizations, promotes impartial investigations and adjudications, and includes the following topics, as applicable: relevant evidence and how it should be used, proper techniques for questioning witnesses, basic rules for conducting proceedings, avoiding actual or perceived conflicts of interest, and the College's policies and procedures.

## **B. Equal Rights of the Parties**

In all Sexual Misconduct complaint resolution processes under this Policy, the complainant and respondent are entitled to:

- Be treated with respect, sensitivity, and dignity;
- Appropriate support from the College;
- Privacy to the extent possible based on applicable law and College Policy;
- Information on the Policy and procedures;
- Written information about available support and resources and an opportunity to discuss those resources;
- The right to participate or decline to participate in the complaint resolution process, with the acknowledgement that not participating, either totally or in part, may not prevent the process from proceeding with the information available;
- Equitable procedures that provide both parties with a prompt and equitable complaint resolution process conducted by officials who receive annual training on conduct prohibited by the Policy;
- Notice of the allegations and defenses and an opportunity to respond;
- An equal opportunity to identify relevant witnesses and other evidence and to suggest possible topics to be covered with witnesses during the formal complaint resolution process;
- Written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings at which the party's participation is invited or expected, with sufficient time for the party to prepare to participate;

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- Timely notice of meetings that are part of the complaint resolution process at which the complainant or respondent may be present;
- The right to be free from retaliation, as defined in this Policy;
- The right to appeal the decision or the dismissal of a formal complaint in certain circumstances, as discussed in the section XI(F)(7) Appeals below;
- The right to notification, in writing, of the resolution, including the outcome of any appeal;
- The complainant and respondent have the right to the assistance of campus personnel (during and after the complaint process), in cooperation with the appropriate law enforcement authorities, in shielding the complainant or respondent, at their request, from unwanted contact with the complainant or respondent, including but not limited to a College issued no-contact directive, transfer to alternative classes or to alternative College-owned housing (if alternative classes or housing are available and feasible), change in work location or schedule, or reassignment (if available and feasible); and to receive assistance with academic issues.
- The complainant has the right to decide when to repeat a description of an incident of Sexual Misconduct, and the respondent has the right to decide when to repeat a description of a defense to such allegations.
- The complainant and respondent have the right to the complete and prompt assistance of campus authorities, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with a Sexual Assault incident.
- The complainant and respondent have the right to the assistance of campus authorities in preserving materials relevant to a campus complaint proceeding.
- The complainant and the respondent have the right to be provided access to their description of the incident, as it was reported to the College, including if the individual transfers to another post-secondary institution, subject to compliance with FERPA, the Clery Act, Title IX, and other federal or state law. Requests for an individual's description of the incident should be made to the Title IX Coordinator.

### **C. Additional Rights in Cases Involving Allegations of Title IX Sexual Harassment**

In cases involving allegations of Title IX Sexual Harassment the following additional rights will be afforded to the complainant and the respondent:

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The College will not limit the choice or presence of advisor for either the complainant or respondent in any meeting related to the complaint resolution process. See the section X(E) Advisors below for additional information and requirements regarding the conduct of advisors.
- The parties will be provided 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, as set forth in the section XI(F)(2) Access to Information below.
- The parties will be provided with the investigation report in electronic format or hard copy for their review and written response, as set forth in the section XI(F)(2) Access

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to Information below.

- The complaint resolution process will include a live hearing, at which each party's advisor may ask the other party and any witnesses all relevant questions and follow-up questions, as set forth in the section XI(F)(3)(a) Live Hearings below.

In addition, a complainant who alleges Title IX Sexual Harassment, has the following rights:

- To be informed by the College of options to notify proper law enforcement authorities of a Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident, and the right to report to law enforcement at any time or to decline to notify such authorities;
- Not to be treated in a manner that suggests she or he is at fault for the Sexual Assault or violence or that she or he should have acted in a different manner to avoid becoming a victim;
- Not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent, unless such questions or evidence are to prove that someone other than the respondent committed the alleged Sexual Misconduct;
- To the complete and prompt assistance of campus authorities, at the complainant's request, in notifying the appropriate law enforcement officials and College officials of a Sexual Assault Dating Violence, Domestic Violence, or Stalking incident and filing criminal charges with local law enforcement officials in Sexual Assault, Dating Violence, Domestic Violence, or Stalking cases;
- To be offered fair and respectful health care, counseling services, or referrals to such services and notice of the availability of campus or local programs providing Sexual Assault advocacy, Dating Violence, Domestic Violence, or Stalking services;
- To be offered assistance from the Crime Victim Reparations Board and the Commissioner of Public Safety.
- For students who choose to transfer to another post-secondary institution, at the student's request, the right to receive information about resources for victims of Sexual Assault, Dating Violence, Domestic Violence, or Stalking at the institution to which the victim is transferring.

### **D. Additional Rights in Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, or Stalking *Occurring Outside* of the Education Program or Activity or Against a Person *Outside of* the United States**

In cases involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, the following additional rights will be afforded to the complainant and the respondent:

- The parties have the right to be accompanied to any complaint resolution process meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The College will not limit the choice or presence of advisor for

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either the complainant or respondent in any meeting related to the complaint resolution process. See the section X(E) Advisors below for additional information and requirements regarding the conduct of advisors.

- The complainant and respondent have the right to timely and equal access to information that will be used during informal and formal disciplinary meetings during the adjudication phase of the complaint resolution process, as set forth in the section XI(F)(2) Access to Information below.

In addition, a complainant who alleges Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, has the following rights:

- To be informed by the College of options to notify proper law enforcement authorities of a Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident, and the right to report to law enforcement at any time or to decline to notify such authorities;
- Not to be treated in a manner that suggests she or he is at fault for the Sexual Assault or violence or that she or he should have acted in a different manner to avoid becoming a victim;
- Not to be questioned or have evidence considered regarding the complainant's prior sexual conduct with anyone other than the respondent, unless such questions or evidence are to prove that someone other than the respondent committed the alleged Sexual Misconduct;
- To the complete and prompt assistance of campus authorities, at the complainant's request, in notifying law enforcement officials and College officials of a Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident and filing criminal charges with local law enforcement officials in Sexual Assault, Dating Violence, Domestic Violence, and Stalking cases;
- To be offered fair and respectful health care, counseling services, or referrals to such services and notice of the availability of campus or local programs providing Sexual Assault, Dating Violence, Domestic Violence, or Stalking advocacy services;
- To be offered assistance from the Crime Victim Reparations Board and the Commissioner of Public Safety;
- For students who choose to transfer to another post-secondary institution, at the student's request, the right to receive information about resources for victims of Sexual Assault, Dating Violence, Domestic Violence, or Stalking at the institution to which the victim is transferring.

### **E. Advisors**

The complainant and the respondent in the complaint resolution process involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, and Stalking *occurring outside* of the College's education program or activity or against a person *outside* of the United States, have the right to be accompanied to meetings by an advisor of their

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choice, who may be, but is not required to be, an attorney. Generally, the advisor selected by the complainant or respondent should be free of conflicts of interest in the resolution process and, if a member of the College community, the advisor should be free of conflicts in his or her position in the community. An individual has the right to decline a request to serve as an advisor in the College's complaint resolution process.

Guidelines for advisors are:

- The purpose of the advisor is to support an individual during the complaint resolution process. An advisor is permitted to accompany the individual to interviews or other meetings or proceedings during the complaint resolution process. In selecting an advisor, each party should consider the potential advisor's availability to attend interviews and meetings which may occur in person. As a general matter, the College will not delay its proceedings to accommodate the schedules of advisors.
- Advisors may confer with their advisee, but, with the exception of the live hearings for cases involving allegations of Title IX Sexual Harassment (discussed below), advisors may not actively participate in the complaint resolution process. The advisor may accompany the complainant or respondent to all meetings relating to the complaint resolution process. The advisor may not appear in lieu of the complainant or respondent or speak on their behalf in either in-person or written communications to the College. The advisor may not communicate directly with the investigator(s), Title IX Hearing Panel/adjudicators, appeal officers, Title IX Coordinator or any other school official involved in the complaint resolution process and may not interrupt or otherwise delay the complaint resolution process.
- In complaint resolution processes involving allegations of Title IX Sexual Harassment:
  - At the live hearing, advisors will be permitted to ask the parties and any witnesses all relevant questions and follow-up questions. Additional information about an advisor's role at the live hearing is included in the section XI(F)(3)(a) Live Hearing below.
  - Advisors will receive a hard copy or electronic format of all directly-related evidence and the investigation report, as set forth in the section XI(F)(2) Access to Information below.
- In complaint resolution processes involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking occurring outside of the College's education program or activity or against a person outside of the United States:
  - Advisors may have access to information as is described further below in the section XI(F)(2) Access to Information below.
- If a party selects an attorney as an advisor, the advisor's participation in the complaint process is in the role of an advisor and not as an attorney representing a party. The advisor will have access to highly confidential information and is prohibited from sharing information obtained as an advisor during the complaint process with anyone, including other individuals who may be part of an attorney-client relationship with the party.
- Parties must notify the Title IX Coordinator who they have selected as their advisor. The College will notify a party to a complaint resolution process if another party involved in the complaint resolution process has obtained an advisor. The notice shall indicate if the

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other party's advisor is an attorney.

- Advisors will be required to sign an Advisor Agreement acknowledging receipt and understanding of these requirements. Failure to comply with these requirements, including violations of confidentiality, or other forms of interference with the complaint resolution process by the advisor may result in disqualification of an advisor. The College reserves the right to dismiss an advisor.

### **F. Requests for Reasonable Accommodations**

Individuals who need a reasonable accommodation should contact the Title IX Coordinator. The College will consider requests for reasonable accommodations submitted to the Title IX Coordinator on a case-by-case basis. Accommodations the College may provide include:

- Providing reasonable accommodations as required by law to an individual with a disability who requests an accommodation necessary to participate in the complaint resolution process.
- Providing an interpreter for individuals who are limited English-language proficient.

### **G. Supportive/Interim Measures**

After receiving a report of alleged Sexual Misconduct, the Title IX Coordinator will consider whether supportive/interim actions, accommodations or protective measures are reasonably necessary or appropriate to protect the parties and the broader College community. Such supportive/interim measures will be available without fee or charge to the complainant, respondent, and others adversely impacted by the complaint resolution process, if requested and reasonably available. Such measures will be designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or to deter sexual harassment.

The College is required to comply with a student's reasonable request for a living and/or academic situation change following an alleged incident of Sexual Misconduct. The College will make appropriate accommodations and provide appropriate protective measures with or without a formal complaint, even when a complainant asks that the College keep a reported violation of this Policy confidential and that it not investigate the matter and regardless of whether an individual chooses to report to law enforcement or campus security.

Examples of supportive/interim measures include, without limitation:

- Establishing a "no contact" directive prohibiting the parties involved from communicating with each other;
- Changing an individual's on campus residency, dining, or transportation arrangements;
- Special parking arrangements;

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- Assistance in finding alternative housing;
- Changing an individual's student or employee status or job responsibilities;
- Changing an individual's work or class schedule;
- Providing academic accommodations or providing assistance with academic issues;
- Providing security escorts;
- Access to counseling and medical services;
- Making information about protective orders and criminal no contact orders available and providing assistance with respect to obtaining and enforcing such orders;
- Assistance in identifying an advocate to help secure additional resources or assistance, including off campus and community advocacy, support, and services;
- For students who choose to transfer to another institution, at the student's request, providing information about resources for victims of Sexual Assault at the institution to which the student is transferring.

The College determines which measures are appropriate for a particular individual on a case-by-case basis. Such measures will vary based on the particular facts and circumstances, including but not limited to the specific need expressed by the individual, the age of the individuals involved, the severity or pervasiveness of the allegations, any continuing effects on the individual, whether the complainant and respondent share the same residence hall, dining hall, class, transportation, or job location, and whether other judicial measures have been taken to protect the individual. The Title IX Coordinator will be responsible for determining what measures will be put in place.

To request supportive/interim measures, individuals should contact the Title IX Coordinator.

The College will maintain as confidential any accommodations or protective measures provided to an individual, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the accommodations or protective measures. The College will only disclose information necessary to provide the accommodations or protective measures in a timely manner to individuals who need to know the information in order to effectively provide the accommodations or protective measures. The Title IX Coordinator will determine what information about an individual should be disclosed and to whom this information will be disclosed based on the facts and circumstances of the specific situation and the accommodation to be provided. The College will inform the individual before sharing personally identifying information that the College believes is necessary to provide an accommodation or protective measure. The College will tell the individual which information will be shared, with whom it will be shared, and why it will be shared.

Additional services are available on campus and/or in the community, as described in the section XV Resources at the end of this Policy and on the College's website.

Any concern about a violation of a supportive/interim measure should be reported to the Title IX Coordinator promptly. Complaints of a violation of a supportive/interim measure will be handled as discussed in the section XIII. Complaints of Related Misconduct below.

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## **H. Obligation to Act in Good Faith**

Reports and formal complaints of alleged Sexual Misconduct should be made only in good faith. Reports and formal complaints that are not made in good faith may be a form of retaliation under this Policy and/or may violate other College policies.

All parties and witnesses have an obligation to be truthful in the complaint resolution process. An allegation that a person has violated the obligation to act in good faith will be handled through the procedures identified below in section XIII. Complaints of Related Misconduct.

## **I. Conflicts of Interest and Bias**

If a complainant or respondent has any concern that any individual acting for the College under this Policy has a conflict of interest or bias for or against complainants or respondents generally or for or against the individual complainant or respondent, the complainant or respondent should submit the concern in writing to the Title IX Coordinator within two (2) calendar days after receiving notice of the person's involvement in the process. The Title IX Coordinator will review the concerns and take appropriate steps to ensure that no conflicts of interest or bias exist on the part of anyone investigating or adjudicating a complaint under this Policy.

If the party feels that the Title IX Coordinator has a conflict of interest or bias, the party should notify The Manger of Human Resources in writing of the concern. If the Title IX Coordinator has a conflict of interest or bias with respect to a formal complaint, the Manager of Human Resources shall appoint an alternative person to oversee adherence to the Sexual Misconduct Policy with respect to the complaint at issue.

The parties should be mindful that the College has a small and close-knit campus community. That a party simply knows an individual acting for the College under this Policy or has had some limited interaction with such individual generally will not be deemed a disqualifying conflict of interest or bias in most instances. However, the College encourages the parties to bring any concern of conflict of interest or bias to the Title IX Coordinator's attention for consideration.

## **J. Non-Participation and Silence**

Either party may decline, at any time, to provide information or participate further in the complaint resolution process. If, at any time during the complaint resolution process, a party decides not to participate, the College may proceed with the complaint resolution process and make a determination based upon the information available. If at any time the complainant declines to participate in the process, the College's ability to meaningfully investigate and adjudicate a complaint may be limited. In such cases, the College will proceed with the complaint resolution process, if possible to do so without the complainant's participation, and will make a determination based upon the information available. The respondent also has the right to decline to participate in the complaint resolution process. In such cases, the College will proceed with the complaint resolution process and will make a determination based upon the information available. A respondent's silence in response to a complainant's allegation will not necessarily be viewed as an admission of the allegation, but may leave the complainant's

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allegations undisputed. Similarly, a complainant's silence in response to a respondent's denials or defenses will not necessarily be viewed as an admission of the denials or defenses, but may leave the respondent's denials or defenses undisputed. Even if a party decides not to participate or chooses to stop participating at a phase of the process, the party will still be given the option to participate during additional phases of the process.

In cases involving allegations of Title IX Sexual Harassment, the Title IX Hearing Panel will not draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross-examination or other questions. However, the Title IX Hearing Panel may consider a party's or witness's refusal to answer one or more questions at the hearing when determining how much weight to give the party's or witness's statements.

### **K. Time Frames for Resolution**

The College is committed to the prompt and equitable resolution of allegations of Sexual Misconduct. As is discussed in more detail above and below, different procedures apply to cases involving allegations of Title IX Sexual Harassment than to other cases of alleged Sexual Misconduct. The time frames for each phase of the different procedures are as follows:

#### **1. Cases Involving Allegations of Title IX Sexual Harassment**

Specific time frames for each phase of the complaint resolution process for formal complaints involving allegations of Title IX Sexual Harassment are set forth in the section XI. Sexual Misconduct Complaint Resolution Procedures below. Each phase of the process will generally be as follows:

- Review of formal complaint and notice of allegations to the parties: ten (10) calendar days
- Investigation: forty-five (45) calendar days
- Review of directly-related evidence and investigator consideration of evidence response statements: seventeen (17) calendar days
- Review of investigation report and written response: five (5) calendar days
- Live Hearing and Determination: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

#### **2. Cases Involving Allegations of Other Forms of Sexual Misconduct**

Specific time frames for each phase of the complaint resolution process for formal complaints involving allegations of any other form of Sexual Misconduct are set forth in the section XI. Sexual Misconduct Complaint Resolution Procedures below. Each phase of the process will generally be as follows:

- Review of formal complaint and notice of allegations to the parties: ten (10) calendar

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days

- Investigation: forty-five (45) calendar days
- Review of investigation report and written response/rebuttal, if applicable: ten (10) calendar days
- Adjudication: twenty-five (25) calendar days
- Appeal: twenty (20) calendar days

In any Sexual Misconduct complaint resolution process, the process may include additional days between these phases as the College transitions from one phase to another. The parties will be notified when each listed phase begins and when it ends. If any transition period will last longer than five (5) calendar days, the parties will be notified of the delay and the reason for it.

Circumstances may arise that require the extension of time frames based on the complexity of the allegations, the number of witnesses involved, the availability of the parties and witnesses involved, the addition of new parties or new allegations to an amended notice of allegations, the effect of a concurrent criminal investigation, unsuccessful attempts at informal resolution, any intervening school break, the need for language assistance or accommodation of disabilities, or other unforeseen circumstances.

In cases where conduct that violates this Policy has also been reported to law enforcement, the College will not delay its complaint resolution process in order to wait for the conclusion of a criminal investigation or proceeding. The College will, however, comply with valid requests by law enforcement for cooperation in a criminal investigation. As such, the College may need to delay temporarily an investigation under this Policy while law enforcement is in the process of gathering evidence. This process typically takes seven (7) to ten (10) days. Once law enforcement has completed its gathering of evidence, the College will promptly resume and complete its complaint resolution process.

To the extent additional time is needed during any of the phases of the process discussed above and further below, the College will notify all parties of the delay and the reasons for it. When a time frame for a specific phase of the process, as set forth below, is less than five (5) calendar days, the College may, in its discretion, use business days to calculate the time frame deadline. Efforts will be made to complete the process in a timely manner balancing principles of thoroughness, fundamental fairness, and promptness.

Complainants are encouraged to begin the complaint resolution process as soon as possible following an alleged incident. There is no statute of limitation for reporting prohibited conduct to the College under this Policy; however, the College's ability to respond may diminish over time, as evidence may erode, memories may fade, and respondents may no longer be affiliated with the College. If a complaint is brought forward more than four (4) calendar years after an alleged incident, the College, in its discretion, may decline to process a complaint under these procedures, but reserves the right to take other administrative action as appropriate depending on the specific circumstances of the report, and will provide reasonably appropriate supportive/interim measures, assist the complainant in identifying external reporting options, and take reasonable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its

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effects. If the respondent is still a member of the College community as a student or employee, the formal complaint generally will be processed under these procedures.

### **L. Presumption of Non-Responsibility**

The presumption is that the respondent is not responsible for a Policy violation. The respondent is presumed not responsible until a determination regarding responsibility is made at the conclusion of the complaint resolution process. The respondent will be deemed responsible for a Policy violation only if the appointed Title IX Hearing Panel/adjudicator(s) conclude that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent more likely than not engaged in Sexual Misconduct.

### **M. Application of Policy**

When the College receives a report or formal complaint of a violation of this Policy, the College will apply the complaint resolution procedures from the Policy that is in effect at the time that the report or formal complaint is made and generally will apply the Sexual Misconduct definitions from the Policy that was in effect at the time the alleged misconduct occurred. For cases involving allegations of Title IX Sexual Harassment, the College will apply the definitions from the policy that is in effect at the time the formal complaint is made to determine what procedures apply and the definitions from the policy that was in effect at the time the alleged misconduct occurred to determine whether a policy violation occurred.

### **N. Reservation of Flexibility**

The procedures set forth in this Policy reflect the College's desire to respond to complaints in good faith and in compliance with legal requirements. The College recognizes that each case is unique and that circumstances may arise which require that it reserve some flexibility in responding to the particular circumstances of the matter. The College reserves the right to modify the procedures or to take other administrative action as appropriate under the circumstances.

In instances where a formal complaint is made against an individual who is not a student or employee of the College and in instances when the conduct alleged, if true, would not meet the definition of Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking, the College reserves discretion to use a process or procedures other than those outlined below, as appropriate under the circumstances.

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## **XI. SEXUAL MISCONDUCT COMPLAINT RESOLUTION PROCEDURES**

When the College receives a formal complaint of potential Sexual Misconduct, the College will use the protocol outlined below to promptly and equitably investigate and adjudicate the formal complaint.

As discussed above in the section X. General Provisions for Complaint Resolution Process, different procedures apply to the complaint resolution process depending on the particular circumstances of a case, including the type of Sexual Misconduct that is alleged. Further information about the different procedures is provided below.

### **A. Initial Meeting Between the Complainant and Title IX Coordinator**

In most cases, the first step of the complaint resolution process is a preliminary meeting between the complainant and the Title IX Coordinator. The purpose of the preliminary meeting is to allow the Title IX Coordinator to gain a basic understanding of the nature and circumstances of the report or formal complaint; it is not intended to be a full investigation interview.

As part of the initial meeting with the complainant, the Title IX Coordinator will:

- Assess the nature and circumstances of the allegation;
- Address immediate physical safety and emotional well-being of the complainant and the campus, in consultation with appropriate campus officials;
- Notify the complainant of the right to contact law enforcement and seek medical treatment;
- Notify the complainant of the importance of preservation of evidence;
- Identify resources available to the complainant on- and off-campus;
- Notify the complainant of the range of supportive/interim measures with or without filing a formal complaint;
- Provide the complainant with an explanation of the procedural options, including how to file a formal complaint, if not already filed, and the complaint resolution process;
- Inform the complainant of the right to have an advisor of choice, as applicable under this Policy;
- Discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding; and
- Explain the College's Policy prohibiting retaliation.

All reports and formal complaints of Sexual Misconduct will be reviewed by the Title IX Coordinator to determine the risk of harm to individuals or to the campus community. Steps will be taken to address these risks in consultation with the members of the Title IX Team.

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If the Title IX Coordinator determines that the report or formal complaint, even if substantiated, would not be a violation of this Policy, they may dismiss the matter or refer it to another applicable disciplinary procedure. The parties will be notified of that determination and the complainant will be informed of other procedures for resolving the formal complaint and of other resources that may be available to the complainant.

### **B. Formal Complaint and Notice of Allegations**

The filing of a formal complaint begins the complaint resolution process under this Policy. In most cases, the complainant files a formal complaint with the Title IX Coordinator. However, in some cases, the College may move forward with a complaint resolution process even if the complainant chooses not to make or move forward with a formal complaint. If the College decides that it has an obligation to move forward with a complaint resolution process, the Title IX Coordinator will sign the formal complaint and the College will notify the complainant before proceeding. See section VII(C) Requesting Confidentiality or Non-Action above for more information. The Title IX Coordinator signing the formal complaint does not make the Title IX Coordinator a party to the complaint resolution process or adverse to the respondent.

When the Title IX Coordinator has received a formal complaint, the Title IX Coordinator will assess the formal complaint to determine if it states any allegations of Sexual Misconduct. If the formal complaint alleges Sexual Misconduct, the Title IX Coordinator will provide a written notice of allegations to the parties who are known. The written notice will include:

- Notice of the College's complaint resolution process, including the informal resolution process;
- Notice of the allegations, including the identities of the parties involved in the incident(s), if known, the conduct allegedly constituting Sexual Misconduct, and the date and location of the alleged incident, if known;
- A statement that the respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made at the conclusion of the complaint resolution process;
- Notice that the parties have the right to an advisor of choice, as applicable under this Policy, who may be, but is not required to be, an attorney;
- Notice that the parties have the right to inspect and review evidence, as applicable under this Policy; and
- Notice of policy provisions that prohibit knowingly making false statements or knowingly submitting false information during the complaint resolution process, including section X(H) Obligation to Act in Good Faith above.

If the College decides to investigate allegations about the complainant or respondent that are not included in the notice provided, the notice will be updated to provide notice of the additional allegations to the parties whose identities are known.

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In addition, upon receiving a formal complaint, the Title IX Coordinator will make a preliminary determination of the procedures that will apply to the complaint resolution process.

When the Title IX Coordinator has received a formal complaint of Sexual Misconduct, the Title IX Coordinator will also meet with the respondent and will:

- Notify the respondent of the complaint and alleged Policy violations;
- Provide the respondent an explanation of the complaint resolution process;
- Notify the respondent of the importance of preservation of evidence;
- Notify the respondent of any supportive/interim measures that have been put in place that directly relate to the respondent (i.e., no-contact order);
- Notify the respondent of available supportive/interim measures;
- Provide the respondent with information about on and off campus resources;
- Inform the respondent of the right to have an advisor of choice, as applicable under this Policy; and
- Explain the College's Policy prohibiting retaliation.

This stage of initial review of the formal complaint by the Title IX Coordinator and initial notice of the allegations to the parties generally will take no more than ten (10) calendar days. In some cases, more time may be required.

### **C. Investigation of Other College Policy Violations**

If a formal complaint of Sexual Misconduct also implicates alleged violations of other College policies, the Title IX Coordinator and the Dean of Students or other appropriate conduct related personnel will evaluate the allegations to determine whether the investigation of the alleged Sexual Misconduct and the other alleged Policy violations may be appropriately investigated together without unduly delaying the resolution of the Sexual Misconduct formal complaint. Where the Title IX Coordinator, in coordinator with the Dean of Students or other appropriate personnel, determines that a single investigation is appropriate, the determination of responsibility for each of the alleged Policy violations will be evaluated under the applicable Policy. The adjudication may be conducted in accordance with this Policy or the adjudication of the other policy violation may be conducted separately from the adjudication of the alleged Sexual Misconduct.

Note that individuals who make a good faith report of Sexual Misconduct, and individuals who participate in a Sexual Misconduct complaint resolution process, will not be disciplined by the College for any violation of College policies in which they might have engaged in connection with the reported incident, except in the limited circumstances discussed in section IX(H) Amnesty, above.

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## **D. Consolidation of Formal Complaints**

The College reserves the right to consolidate formal complaints into one complaint resolution process as to allegations of Sexual Misconduct against more than one respondent, by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of Sexual Misconduct arise out of the same facts or circumstances.

## **E. Informal Resolution Process**

Following a formal complaint, at any time prior to reaching a determination regarding responsibility, the College may facilitate an informal resolution process. In cases involving allegations of Sexual Assault or more serious Sexual Misconduct, informal resolution may not be appropriate. In addition, in cases involving allegations that an employee engaged in Title IX Sexual Harassment against a student, informal resolution is not appropriate.

If the complainant, the respondent, and the College all agree to pursue an informal resolution, the Title IX Coordinator will attempt to facilitate a resolution that is agreeable to all parties. The Title IX Coordinator will not be an advocate for either the complainant or the respondent in the informal resolution process, but rather will aid in the resolution of the formal complaint in a non-adversarial manner. Under the informal process, the College will only conduct such fact-gathering as is useful to resolve the formal complaint and as is necessary to protect the interests of the parties, the College, and the College community.

The College will not compel a complainant or respondent to engage in mediation, to directly confront the other party, or to participate in any particular form of informal resolution. Participation in informal resolution is voluntary, and the complainant and respondent have the option to discontinue the informal process and request a formal resolution process at any time prior to reaching an agreed upon resolution. In addition, the College also always has the discretion to discontinue the informal process and move forward with a formal complaint resolution process. If at any point during the informal resolution process prior to reaching an agreed upon resolution, the complainant or respondent or the College wishes to cease the informal resolution process and to proceed through the formal resolution process, the informal resolution process will stop and the formal complaint resolution process outlined below will be invoked.

Prior to engaging in an informal resolution process, the College will provide the parties with a written notice disclosing: the allegations, the requirements of the informal resolution process, including the circumstances under which the informal resolution process precludes the parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. In addition, the College will obtain the parties' voluntary, written consent to the informal resolution process.

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Informal resolution may involve the imposition of individual and community remedies designed to maximize the complainant's access to the educational and extracurricular activities of the College. Examples of potential remedies are provided in the section X(G) Supportive/Interim Measures above. The proposed resolution may also include other institutional responses or requirements imposed on the respondent. Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the College to stop, remedy, and prevent Policy violations.

The informal resolution process ends when a resolution has been reached or when the complainant, the respondent, or the College terminates the process. A successful informal resolution results in a binding agreement between the parties. If the parties to the formal complaint and the College agree in writing to the terms and conditions of a proposed resolution within five (5) calendar days of the Title IX Coordinator presenting the proposed resolution to the parties, the case will be resolved without further process under this procedure. If all parties to the complaint and the College do not agree in writing to the terms and conditions of the proposed resolution within five (5) calendar days of the Title IX Coordinator presenting the proposed resolution to the parties, the complaint will be referred to the formal resolution process.

Appeals are not allowed in cases where the parties have agreed to a voluntary alternative resolution of the matter.

The informal resolution process generally will take no more than fifteen (15) calendar days. In some cases, more time may be required.

### **F. Formal Complaint Resolution Process**

If the formal complaint is not processed or resolved through the voluntary informal resolution process discussed above, the formal complaint will be processed according to the formal resolution process outlined below.

#### **1. Investigation**

Upon determination to open an investigation, the Title IX Coordinator will designate one or more investigators to conduct a prompt and equitable investigation. The College will ensure that the investigator has received the appropriate training, is impartial, and is free of any conflict of interest or bias for or against complainants and respondents generally and for or against the complainant and respondent in the case. The College reserves the right to appoint any trained investigator who is free of conflict of interest or bias, including a third-party investigator. The parties will receive written notice of the investigator(s) appointed. If any party has a concern that the investigator(s) has/have a conflict of interest, the party should report the concern in writing as indicated in the section X(I) Conflicts of Interest and Bias above.

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The investigator(s) will conduct the investigation in a manner appropriate to the circumstances of the case, which will typically include interviews with the complainant, the respondent, and witnesses; in most instances, these interviews will be audio-recorded. The complainant and respondent will have the opportunity to advise the investigator(s) of any witnesses they believe should be interviewed, other evidence they believe should be reviewed by the investigator(s), and questions they would like the investigator(s) to consider asking the other party and any witnesses, including questions challenging credibility. The investigator(s), in consultation with the Title IX Coordinator, has/have discretion to assess the relevancy of any proposed witnesses, evidence, and questions, and to determine which interviews to conduct, including the discretion to conduct interviews of individuals not identified by the parties. The investigator may also determine whether to ask some or all of the questions suggested by the parties. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The complainant and respondent will be given an equal opportunity to present witnesses they believe should be interviewed, and other inculpatory and exculpatory evidence, as part of the investigation. In cases involving allegations of Title IX Sexual Harassment, any witness that a party wishes to call at a hearing must be suggested as part of the investigation process, prior to the issuing of the investigation report, unless extraordinary circumstances exist as determined by the Title IX Hearing Panel, in consultation with the Title IX Coordinator.

The parties will be informed of a close of evidence date. The parties must submit any and all information and evidence they would like considered as part of the investigation by the close of evidence date. After the close of evidence date, the parties will not be permitted to submit new or additional evidence that existed prior to the close of evidence date, unless the investigator(s), in consultation with the Title IX Coordinator, determine(s) otherwise. In cases involving allegations of Title IX Sexual Harassment, all evidence a party wishes to offer or refer to at the hearing must have been provided as part of the investigation process, prior to the close of evidence, unless extraordinary circumstances exist as determined by the Title IX Hearing Panel, in consultation with the Title IX Coordinator.

At the conclusion of the investigation, the investigator(s) will prepare an investigation report that fairly summarizes the relevant evidence. The investigation report may consist of any information, documents, or other evidence that will be provided to the Title IX Hearing Panel/adjudicators. At the investigator's discretion, such information may include, as applicable: the written complaint, the notice of allegations, any other evidence obtained during the investigation, and the investigator's report of the investigation. The investigation report will be forwarded to the Title IX Coordinator who will review the investigation report and has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigation report.

The College will strive to complete the investigation within (i) forty-five (45) calendar days from the assignment of the investigator, or (2) if, after the date the investigator is assigned, the parties receive an amended notice of allegations that includes new allegations or new parties, forty-five (45) calendar days from the date of the amended notice of allegations.

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This time frame may be extended depending on the circumstances of each case. In cases involving allegations of Title IX Sexual Harassment, the College will strive to complete the initial investigation in this 45-day time frame, but the final investigation report will not be completed until after the review of directly related evidence. See the section XI(F)(2) Access to Information below for more information.

### **2. Access to Information**

The procedures in the formal process for all cases of Sexual Misconduct are the same through the investigation phase. Prior to providing access to information, the Title IX Coordinator will make a final determination as to the procedures that will apply to the access to information phase and the adjudication phase.

#### **a. Cases Involving Allegations of Title IX Sexual Harassment**

##### *Review of Directly Related Evidence*

For formal complaints involving allegations of Title IX Sexual Harassment, the parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory and exculpatory evidence whether obtained from a party or other source. The Title IX Coordinator will send such evidence to each party and each party's advisor in electronic format or hard copy. The parties will have a ten (10) calendar day period to review the evidence and prepare a written response to the evidence (the "Evidence Response Statement"). Each party's Evidence Response Statement may not exceed 2,000 words in length. The Evidence Response Statement must be submitted to the Title IX Coordinator within the ten (10) calendar day period described above. The Evidence Response Statement may be used as an opportunity to clarify information contained in the directly related evidence, to present the party's viewpoint about whether the evidence directly related to the allegations is relevant and therefore whether it should be included in the investigation report, and to identify evidence previously provided to the investigator that was not included in the directly related evidence which the party believes is directly related and relevant. While the parties may be assisted by their advisors in preparation of the Evidence Response Statement, the Evidence Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Evidence Response Statement.

The parties and parties' advisors may use the evidence reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the evidence with any other individual. Prior to being provided the evidence obtained as part of the investigation that is directly related to the allegations, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

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The Title IX Coordinator will review the parties' Evidence Response Statements and may remove or redact any portions of the parties' Evidence Response Statements that exceed the word limit of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent or information subject to a legal privilege without a waiver).

The investigator will consider the parties' Evidence Response Statements prior to completion of the investigation report.

All the evidence made available for the parties' review will be available during the hearing.

### *Review of Investigation Report*

For complaints involving allegations of Title IX Sexual Harassment, the Title IX Coordinator will send the investigation report to each party and each party's advisor in electronic format or hard copy at least ten (10) days prior to the live hearing. The parties will have a five (5) calendar day period to review the investigation report and prepare a written response to the report (the "Written Response Statement"). Each party's Written Response Statement may not exceed 2,000 words in length. The Written Response Statement must be submitted to the Title IX Coordinator within the five (5) calendar day period described above. The Written Response Statement may be used as an opportunity to clarify points in the investigation report or identify information previously given to the investigator(s) that is not included in the investigation report which the party believes should have been included, or raise other concerns regarding the evidence. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Response Statement.

The parties and parties' advisors may use the investigation report only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the investigation report with any other individual. Prior to being provided the investigation report, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

The Title IX Coordinator will review the parties' Written Response Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information removed or redacted from the investigation report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' Written Response Statements that exceed the word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

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### **b. Cases Involving Allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking *Occurring Outside of the Education Program or Activity or Against a Person Outside of the United States***

For complaints involving allegations of Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the College's education program or activity or against a person *outside* of the United States, the investigation report will be made available for review by the complainant and respondent. The Title IX Coordinator will provide a five (5) calendar day period for the complainant and respondent to have access to review the investigation report and prepare a response to the investigation report, as discussed below.

Both parties will have the opportunity to provide a written response to the investigation report (the "Written Response Statement"). To do so, the party must submit a Written Response Statement, which may not exceed 4,500 words in length, to the Title IX Coordinator. The Written Response Statement must be submitted by the conclusion of the 5-day period described above. The Written Response Statement may be used as an opportunity to clarify points in the investigation report or identify information previously given to the investigator(s) that is not included in the investigation report which the party believes should have been included, identify questions a party believes the other party has not yet answered or evidence the other party has not explained, raise other concerns regarding the evidence, and to challenge the credibility of the other party and witnesses.. While the parties may be assisted by their advisors in preparation of the Written Response Statement, the Written Response Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Response Statement.

The parties will have an opportunity to review the Written Response Statement submitted by the other party and, if desired, may submit a rebuttal statement ("Written Rebuttal Statement") not to exceed 2,500 words. The Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the other party's Written Response Statement and submit a Written Rebuttal Statement. The Written Rebuttal Statement must be submitted within the 2-day period described above. The Written Rebuttal Statement may only be used to respond to arguments made in the other party's Written Response Statement and to challenge the credibility of the other party and any witnesses. While the parties may be assisted by their advisors in preparation of the Written Rebuttal Statement, the Written Rebuttal Statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. The parties may not address each other in the Written Rebuttal Statement.

The parties will have an opportunity to review the Written Rebuttal Statement submitted by the other party. The Title IX Coordinator will provide a two (2) day period for the complainant and respondent to have access to review the other party's Written Rebuttal

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Statement. While the parties have the opportunity to review the Written Rebuttal statement of the other party, no further responses are permitted by either party.

The parties and parties' advisors may use the investigation report and written statements of the other party reviewed at this step only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the report and written statements with any other individual. Prior to being provided the report and written statements, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

The Title IX Coordinator will review the Written Response Statement and Written Rebuttal Statements. Based on the statements, the Title IX Coordinator has the discretion to ask the investigator(s) for clarification, additional investigation, and/or to have information added, removed, or redacted from the investigation report. In addition, the Title IX Coordinator may remove or redact any portions of the parties' written statements that exceed the word limits of the statements as set forth above or that otherwise exceed the permitted scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

### **3. Adjudication**

Upon completion of the investigation, the Title IX Coordinator will compile the adjudication file which will be shared with the Title IX Hearing Panel/adjudicators. In cases involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Domestic Violence, Dating Violence, or Stalking *occurring outside* of the College's education program or activity or against a person *outside* of the United States, the parties will be given access to any information that is included in the adjudication file to the extent that it includes additional information that the parties did not review as part of the Access to Information step discussed above in section XI(F)(2) Access to Information.

#### **a. Cases Involving Allegations of Title IX Sexual Harassment**

Upon completion of the investigation in cases involving allegations of Title IX Sexual Harassment, the matter will be submitted to a Title IX Hearing Panel to hold a live hearing and to make a determination regarding responsibility and, if appropriate, sanctions.

The Title IX Hearing Panel will conduct a prompt and equitable live hearing and adjudication.

#### *Appointment of the Title IX Hearing Panel*

The Title IX Coordinator will designate a panel of three adjudicators to serve as the Title IX Hearing Panel. Generally, the Title IX Hearing Panel shall be chosen from a pool of Title IX Hearing Panel members. The College reserves the right to appoint any trained individuals who are without conflict or bias to the Title IX Hearing Panel, including third-

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party adjudicators. The Title IX Hearing Panel will not include the Title IX Coordinator or the investigator from the same matter. If any party has a concern that a member of the Title IX Hearing Panel has a conflict of interest or bias, the party should report the concern in writing as indicated in section X(I) Conflicts of Interest or Bias above.

### *Live Hearing*

At the live hearing, each party's advisor will be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such questions will be conducted directly, orally, and in real time by the party's advisor and will never be conducted by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a question at the hearing, the Title IX Hearing Panel must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. 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 in the formal complaint, 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.

All evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be made available at the hearing.

The hearing will generally be held by video-conference with the parties, witnesses, and Title IX Hearing Panel located in separate locations and technology enabling the Title IX Hearing Panel and parties to simultaneously see and hear the party or the witness answering questions. The College reserves the right to determine that a hearing will instead be conducted with all participants, including the parties, witnesses, and the Title IX Hearing Panel physically present in the same location. In the event that the live hearing is held with the participants in the same location, at the request of either party, the College will provide for the parties to be located in separate rooms with technology enabling the Title IX Hearing Panel and parties to simultaneously see and hear the party or witness answering questions.

The College will create an audio or audiovisual recording, or transcript, of any live hearing and, upon request, will make it available to the parties for inspection and review.

### *College Appointed Advisors*

If a party does not have an advisor present at the live hearing, the College will provide an advisor to the party, without fee or charge to that party, to conduct cross-examination on behalf of that party. If a party will not have an advisor present at the hearing, the party must inform the Title IX Coordinator at least three (3) calendar days prior to the live hearing so that the College may appoint an advisor for the hearing. The appointed advisor's role will be limited to relaying the party's questions to be asked of other parties and

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witnesses. The appointed advisor shall not perform any function beyond relaying the party's desired questions. The College reserves the right to appoint any individual as the College deems appropriate to act as an advisor at a live hearing, including a third-party advisor. The College's appointment of an advisor is final and a party who refuses to work with an appointed advisor at the live hearing will forfeit his or her right to conduct cross-examination or other questioning at the hearing.

### *Live Hearing Procedures*

Additional information about live hearings can be obtained from the Title IX Coordinator .

Policy violation. The respondent will be deemed responsible for a policy violation only if the Title IX Hearing Panel concludes that there is sufficient evidence, by a "preponderance of evidence," to support a finding that the respondent engaged in Sexual Misconduct. If the Title IX Hearing Panel determines that the respondent is responsible for a policy violation, the Title IX Hearing Panel will then determine what sanctions and remedies are warranted.

The Title IX Hearing Panel will not 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. However, the Title IX Hearing Panel may consider a party's or witness's refusal to answer one or more questions at the hearing when determining how much weight to give the party's or witness's statements.

Lie detector test results will not be considered credible by the Title IX Hearing Panel in the decision-making process. Character evidence and allegations of prior bad acts by a party without a finding of responsibility by the College or a court of law will generally be given little weight, if any, by the Title IX Hearing Panel in the decision-making process.

When a respondent is found not responsible for a Policy violation, but nevertheless is found to have engaged in inappropriate conduct—for example, inappropriate remarks that do not rise to the level of a violation of this Policy—the College may, in its discretion, require the respondent to receive appropriate education and/or training. The College may also recommend counseling or other support services for the respondent.

### **b. Cases Involving Allegations of Other Forms of Sexual Misconduct**

Upon completion of the investigation in matters involving allegations of Sexual Misconduct that are not Title IX Sexual Harassment, the Title IX Coordinator will designate appropriate adjudicator(s) to adjudicate the formal complaint. Typically, a panel of two adjudicators will be appointed to each case. However, the College reserves the right to appoint additional adjudicators to assist in making a determination in any given case. In addition, in any complaint resolution process, the assigned adjudicators may request to have a third adjudicator appointed to the case at any point during the adjudication prior to the issuance of the written notice of determination.

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- The College reserves the right to appoint any trained adjudicator who is free of conflict of interest or bias in any case, including a third-party adjudicator.
- Typically, the Dean of Students and/or the Director of Residential Life or the Title IX Deputy Coordinator will serve as the adjudicators in cases of student-student complaints.
- Typically, a Vice President and/or the Manager of Human Resources, the Title IX Deputy Coordinator, or an additional Vice President will serve as the adjudicators in cases of student-employee and employee-employee complaints.
- If the president is named as a respondent or as a witness, the matter will be referred to the Board of Regents for resolution.

The parties shall receive written notice of the adjudicator(s) appointed. If any party has a concern that an adjudicator has a conflict of interest or bias, the party should report the concern in writing as indicated in the section X(I) Conflicts of Interest or Bias above.

The adjudicator(s) will review the adjudication file. The adjudicator(s) may, in their discretion, seek additional information from the investigator(s), the parties, or another individual, or request additional investigation by the investigator(s). In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking (that *occurred outside* of the education program or activity or against a person *outside* of the United States), if such information is shared with the adjudicators, the parties will be notified and provided access to that information.

The adjudicator(s) will use the *preponderance of evidence* standard to determine whether it is more likely than not that the respondent violated the College's Sexual Misconduct Policy. The respondent is presumed to be not responsible for violating this Policy. The respondent will be deemed responsible for a Policy violation only if the adjudicator(s) conclude that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the respondent engaged in Sexual Misconduct.

Lie detector test results will not be considered credible by the adjudicators in the decision-making process. Character evidence and allegations of prior bad acts by a party without a finding of responsibility by the College or a court of law will generally be given little weight, if any, by the adjudicators in the decision-making process.

If the adjudicator(s) determine that the respondent is responsible for a Policy violation, they typically will then determine what sanctions and remedies are warranted. The adjudicator(s) will impose sanctions and/or remedies as they determine necessary in their discretion to end the misconduct, prevent its recurrence, and address its effects, while supporting the College's educational mission and legal obligations. The Title IX Coordinator has discretion to appoint a different sanctioning officer as he or she determines appropriate. The College reserves the right to appoint any trained sanctioning officer who is free from conflict of interest or bias, including third-party sanctioning officers.

As part of that determination of sanctions and remedies, the Title IX Coordinator may, in their discretion, provide the adjudicator(s) with information regarding previous violations of

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the Sexual Misconduct Policy or other College policies by the respondent, if any. In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence, and Stalking (that *occurred outside* of the education program or activity or against a person *outside* of the United States), if such information is shared with the adjudicator(s), the parties will be notified and provided access to that information.

When a respondent is found not responsible for a Policy violation, but nevertheless is found to have engaged in inappropriate conduct—for example, inappropriate remarks that do not rise to the level of a violation of this Policy—the College may, in its discretion, require the respondent to receive appropriate education and/or training. The College may also recommend counseling or other support services for the respondent.

### **4. Sanctions and Remedies**

The Title IX Hearing Panel/adjudicator(s) will impose remedies and/or sanctions as necessary to end the misconduct, prevent its recurrence, and address its effects. The College reserves the right to take whatever measures deemed necessary in response to an allegation of Sexual Misconduct in order to protect the rights and personal safety of the complainant and Bethany community members. Not all forms of Sexual Misconduct are deemed equally serious offenses and, as a result, different remedies or sanctions may be imposed depending on the severity of the offense and any previous conduct violations.

Individuals who are found responsible under this Policy may face sanctions as appropriate for students, employees, visitors, or others, including, but not limited to, the following sanctions. Each of these sanctions and other sanctions may be imposed alone or in combination for a respondent found responsible for Sexual Misconduct, as defined by this Policy:

- Verbal or written warnings
- Probationary status
- Required compliance with sanctions
- Restriction of privileges
- Housing suspension or expulsion
- Suspension ranging from five days to five years, with reinstatement requirements that may include behavioral contracts, required assessment or education, demonstrated rehabilitation, conditions upon the individual's presence on campus or at College events, and any other potential conditions on reinstatement.
- Expulsion
- Demotion
- Withholding of diploma or degree for a defined period of time or until the completion of assigned sanctions
- Temporary or permanent revocation of degree
- Revocation of admission to the College
- Termination
- Mandatory assessment, counseling, education, or training
- Behavioral contracts

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- Community service hours
- Temporary or permanent restricted access to areas of campus, and campus events, activities, organizations, or courses
- Conditions upon presence on campus or at College events
- No trespass or no contact orders
- Loss of salary or benefit such as sabbatical or research or travel funding
- Restriction of privileges
- Transfer or change of job or responsibilities
- Reassignment or removal from an elected or appointed position
- Rescind a Call
- Formal censure
- Others as may be deemed appropriate

When an investigation reveals that a campus organization (such as a student club, athletic team, campus academic department, staff/faculty committee) has committed or promoted behavior involving Sexual Misconduct, the organization may be sanctioned. Sanctions to the organization may include, but are not limited to, loss of College privileges (including, but not limited to, prohibition on the organization's participation in certain activities and the use of College facilities), educational requirements for organization members, required additional oversight of organization activities, temporary loss of organization recognition and/or funding, and permanent loss of organization recognition, in addition to individual members of the organization who are determined responsible for a Policy violation being subject to the sanctions listed above. All campus organizations/departments are responsible for the actions of its members when they are operating on behalf of the organization/department.

Violations of imposed sanctions should be reported to the Title IX Coordinator. Such reports will be handled according to the section XIII. Complaints of Related Misconduct below.

Remedies for the complainant are designed to restore or preserve equal access to the College's education program or activity. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. Remedies, accommodations, and protective measures for the complainant include implementing or extending supportive/interim measures, including, without limitation, the following examples:

- A mutual or one-sided no-contact order
- Prohibiting an individual involved from being on College property
- Prohibiting an individual involved from participating in College-sponsored events
- Changing an individual's on campus residency, dining, or transportation arrangements
- Special parking arrangements
- Changing an individual's student or employee status or job responsibilities
- Changing an individual's work or class schedule

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- Providing academic accommodations or providing assistance with academic issues
- Providing security escorts
- Providing a temporary cell phone
- Access to counseling
- Making information about orders for protection and harassment restraining orders available to a complainant
- Assistance identifying an advocate to help secure additional resources or assistance, including off campus and community advocacy, support, and services

The College will undertake, to the extent possible, additional remedies as dictated by the circumstances, such as increased training to prevent Sexual Misconduct; additional written education materials (policies and resources); review campus security relative to monitoring, supervision, or security at locations where the reported Sexual Misconduct occurred; and/or revisiting other policies and practices. In addition, the College may recommend education, training, counseling, treatment, or other support services for others involved in the complaint resolution process, including complainants and witnesses, in some instances—for example, when individuals have engaged in high-risk use of alcohol or drugs.

The Title IX Coordinator is responsible for effective implementation of any remedies.

### **5. Notice of Determination**

The complainant and respondent will simultaneously receive a written notice of the outcome.

For formal complaints alleging (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of an education program or activity or against a person *outside* the United States, the written notice shall include the allegations potentially constituting Sexual Misconduct, 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 the parties and witnesses, site visits, methods used to gather other evidence, and hearings held), findings of fact supporting the determination, conclusions regarding the application of the College's policy to the facts, the determination regarding responsibility as to each allegation, any imposition of sanctions, whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant, and the rationales for the determination and sanctions (including how the evidence was weighed, how the information supports the result, and the standard of evidence applied). The written notice will also include information about the procedures and permissible bases for appeal, as set forth below, and when the result becomes final. In addition, the written notice shall include any other steps the College has taken to eliminate the conduct and prevent its recurrence.

For all other complaints of Sexual Misconduct, the written notice shall include the determination of the adjudicator(s).

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In cases involving allegations of Title IX Sexual Harassment, the written notice of determination will generally be received within twenty-five (25) calendar days from the date the live hearing concluded. In cases involving allegations of other forms of Sexual Misconduct, the written notice of determination will generally be received within twenty-five (25) calendar days from the date the adjudicators receive the adjudication file. In some cases, more time may be required. In some cases, more time may be required.

The determination of the Title IX Hearing Panel/adjudicator(s) may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final and the sanctions, if any, will be effective.

### **6. Dismissal of Formal Complaint Prior to Adjudication**

If the allegations in a formal complaint are initially included in the notice of allegations as allegations of Title IX Sexual Harassment, but facts are gathered during the course of the complaint resolution process that indicate that the alleged conduct does not meet the definition of Title IX Sexual Harassment, the College will dismiss the formal complaint as to those allegations. Even if a formal complaint or any allegations of Title IX Sexual Harassment are dismissed, the College reserves the right to move forward with a complaint resolution process using the other Sexual Misconduct definitions and the other procedures in this Policy, as applicable.

In cases involving allegations of any Sexual Misconduct, the College may, at its discretion, dismiss the case prior to adjudication in certain circumstances. Circumstances that may lead to dismissal prior to adjudication, include, but are not limited to: the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, the respondent is no longer enrolled or employed by the College, or specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the College dismisses a formal complaint, the College will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties. A dismissal of a formal complaint may be appealed as provided below.

### **7. Appeals**

The complainant and respondent have the right to appeal a decision to dismiss a formal complaint or any allegations therein, as discussed above in the section XI(F)(6) Dismissal of Formal Complaint Prior to Adjudication above. The parties may also appeal the Title IX Hearing Panel's/adjudicator(s)' decision regarding responsibility.

Grounds for appeal are as follows:

- Procedural irregularity that affected the outcome of the matter;

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- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or Title IX Hearing Panel/adjudicator(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- The sanction(s) or other response by the College was excessively severe or grossly inadequate.

### **a. Submitting an Appeal**

Either party may request an appeal by submitting to the Title IX Coordinator, within two (2) calendar days after the complainant and respondent receive the notice of determination, a written appeal statement challenging the outcome of the complaint resolution process. The written appeal may not exceed 2,000 words. While the parties may be assisted by their advisors in preparation of the appeal, the appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The Title IX Coordinator will review the appeal statement to determine whether the appeal states a permissible ground for appeal (as set forth above), such that the appeal will be considered. The Title IX Coordinator may remove or redact any portions of the appeal statement that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution proceeding (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

If the Title IX Coordinator determines that the appeal will be considered, the non-appealing party will be notified of the appeal and provided an opportunity to review the appeal statement and submit a written response in support of the outcome. Any written response from the non-appealing party in support of the outcome must not exceed 2,000 words and must be submitted to the Title IX Coordinator within two (2) calendar days of receiving notice of the appeal. While the party may be assisted by their advisors in preparation of the responsive appeal statement, the responsive appeal statement must be submitted by the party, must be the party's own statement, and may not be used to submit the statements of others on the party's behalf.

Upon receipt of the response, the Title IX Coordinator will review the responsive appeal statement and may remove or redact any portions of the statements that exceed the word limit or that otherwise exceed the scope of information that may be considered in the complaint resolution process (such as treatment records without consent, information subject to a legal privilege without a waiver, or evidence relating to the complainant's prior sexual history if an exception does not apply).

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The Title IX Coordinator generally will compile an appeal file, which may consist of any information, documents, or other evidence that will be provided to the appeal officer(s). Such information may include, as applicable, the written appeal statement, the responsive appeal statement, the notice of determination, the adjudication file in its entirety or in part, any previously undiscovered evidence (if discovery of new evidence is a ground for the appeal), and any other information determined to be necessary for the appeal officer(s)' decision, at the Title IX Coordinator's discretion.

For complaints involving allegations of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, the appeal file will be made available for review by the complainant and respondent. The Title IX Coordinator will provide a two (2) calendar day period for the complainant and respondent to have access to review the appeal file.

In cases where the appeal file is made available for review as discussed above, the parties and parties' advisors may use the appeal file reviewed at this step and any additional information reviewed during the consideration of the appeal (see below), only for purposes of participating in the complaint resolution process and are prohibited from disseminating or otherwise sharing the appeal file or additional information with any other individual. Prior to being provided access to the appeal file or any additional information, the parties and parties' advisors will be required to sign a non-disclosure agreement agreeing to such terms.

The parties shall receive written notice of the appeal officer(s) appointed. Generally, the appeal officer will be a vice president who (1) has not been previously involved in the complaint resolution process, and (2) does not have a conflict of interest or bias in the case. However, the College reserves the right to appoint any trained appeal officer who is free of conflict of interest or bias, including a third-party appeal officer. If any party has a concern that the appeal officer(s) have a conflict of interest, the party should report the concern in writing as indicated in the section X(I) Conflicts of Interest and Bias above.

### **b. Consideration of Appeal**

The appeal officer will not rehear the case, but will review the appeal file and consider whether it is more likely than not that any of the above-listed grounds for appeal have been satisfied. The appeal panel may choose to meet with the parties and consider other additional information, in the appeal panel's sole discretion. For cases of (1) Title IX Sexual Harassment or (2) Sexual Assault, Dating Violence, Domestic Violence, or Stalking *occurring outside* of the education program or activity or against a person *outside* of the United States, if the appeal panel receives any additional information, the parties shall have an opportunity to review the additional information.

If the appeal officer determines that there is sufficient evidence to conclude that it is more likely than not that one of the above grounds for appeal is satisfied, generally, the matter will be remanded for further investigation and/or deliberations by the Title IX Hearing

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Panel/adjudicator(s), and/or an additional live hearing, as determined by the appeal officer. If the appeal officer grants an appeal finding the imposed sanction was excessively severe or grossly inadequate, the appeal officer has the discretion to modify the sanctions determination or to remand the matter to Title IX Hearing Panel/adjudicators for a new sanctions determination. If the appeal officer modifies the sanctions determination, the appeal officer's sanctions decision will be subject to an appeal.

When the matter is remanded, the appeal officer, in consultation with the Title IX Coordinator, will determine whether the matter should be remanded to the previous Title IX Hearing Panel/adjudicator(s) or whether a new Title IX Hearing Panel/adjudicator(s) should review the matter. The appeal officer may not change the Title IX Hearing Panel's/adjudicator(s)' determination of whether the respondent was responsible or not responsible for a Policy violation. Only the Title IX Hearing Panel/adjudicator(s) reviewing the matter on remand from an appeal may change the determination of the original Title IX Hearing Panel/adjudicator(s) of whether the respondent was responsible or not responsible for a Policy violation. If the reasons for remand relate to the investigation or warrant additional investigation, the appeal officer will determine whether the matter should be remanded to the previous investigator or whether a new investigator should be appointed.

Upon remand, the investigator and Title IX Hearing Panel/adjudicator(s) shall utilize the same process as required for all complaint resolution processes under this Policy. If the matter is remanded, the determination made on remand will be appealable under the procedures discussed in this section.

If the appeal officer determines that there is insufficient evidence to conclude that it is more likely than not that one or more grounds for appeal have been satisfied, the appeal officer will dismiss the appeal. This decision is final and is not appealable. If the appeal officer dismisses the appeal, the sanctions will be effective on the date the appeal officer's decision is provided to the parties.

The appeal officer will simultaneously issue to the parties a written decision describing the result of the appeal and the appeal officer's rationale for the result. The College will strive to complete the appeal within twenty (20) calendar days following the appeal officer's receipt of the appeal file from the Title IX Coordinator; however, in some cases, more time may be required.

Appeals arising out of alleged violations of this Policy must be made under this appeal process and are not eligible for consideration under faculty, staff or student grievance policies or processes.

## **XII. RECORDKEEPING RELATING TO SEXUAL MISCONDUCT**

The Title IX Coordinator is responsible for maintaining the official College records of Sexual Misconduct reports and formal complaints. When a formal complaint is pending, each official having a role in the complaint resolution process is responsible for handling

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records appropriate to their role. When the process is complete, the official records relating to the formal complaint or report will be provided to the Title IX Coordinator, who will maintain such records in accordance with the College's record retention requirements and applicable law.

Records related to Sexual Misconduct reports and formal complaints will be treated as confidential and shared only on a need-to-know basis, as required by law, or to conduct a complaint resolution process.

### **XIII. COMPLAINTS OF RELATED MISCONDUCT**

Any complaint relating to retaliation or interference with process in violation of this Policy, or violations of supportive/interim measures, sanctions, the obligation to act in good faith, or a nondisclosure agreement should be reported promptly to the Title IX Coordinator. The College will provide a prompt and equitable process for the resolution of complaints alleging retaliation or interference with process or violations of supportive/interim measures, sanctions, the obligation to act in good faith, or a nondisclosure agreement and will take appropriate action against any individual who engages in such conduct.

When the College receives a complaint of retaliation or interference with process or of violations of supportive/interim measures, sanctions, the obligation to act in good faith, or a nondisclosure agreement, the Title IX Coordinator may exercise discretion to determine an appropriate responsive process based on the facts and circumstances. At the Title IX Coordinator's discretion, options for resolution include but are not limited to informal discussions and resolution facilitated by the Title IX Coordinator, investigation and/or determination by the Title IX Coordinator, or assignment of a designated individual to investigate the complaint and/or determine an appropriate response. This process will be separate and distinct from the Complaint Resolution Procedures outlined above for addressing Sexual Misconduct formal complaints. The Title IX Coordinator will document the complaint received, the process used, and the outcome. The College will notify the parties of the outcome of the complaint. In instances where the outcome of the process results in a suspension longer than one year, expulsion, or termination of employment, the impacted individual may appeal the decision in accordance with the appeal rights set forth in this Policy.

### **XIV. ALTERNATIVE PROCEDURES**

Nothing in this Policy is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but is not limited to, filing a complaint with the United States Department of Education's Office for Civil Rights (OCR). The person filing the complaint need not be a complainant of the alleged Sexual Misconduct, but may complain on behalf of another person. More information can be found about filing a complaint at <http://www2.ed.gov/about/offices/list/ocr/complaints-how.html>.

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The OCR office for institutions located in Minnesota is:

U.S. Department of Education  
Office for Civil Rights  
Citigroup Center  
500 W. Madison Street, Suite 1475  
Chicago IL 60661-4544

Tel: (312) 730-1560  
TDD: (877) 521-2172  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

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### XV. RESOURCES

#### Options for Assistance Following an Incident of Sexual Assault

- Go to a safe place.
- Call **911** if in immediate danger, if you are injured, or the community is in possible danger.
- Consider securing immediate professional support on or off campus to assist you in the crisis.
- Seek appropriate medical care as soon as possible for injuries, preventive treatment for sexually transmitted diseases, and possible evidence collection. Treatment can be sought before reporting the assault to the police or to Campus Security. Further, being examined as soon as possible, ideally within 24 hours, is important in the case of Sexual Assault. The hospital will arrange for a specific medical examination at no charge. Even if you do not want to report the incident to the police, or some time has passed since the assault, you may still need and benefit from medical attention.
  - Mayo Clinic Health System (Emergency Room)  
1025 Marsh Street, Mankato, MN 56001  
(507) 625-4031 OR 1-800-327-3721
  - Mankato Clinic Urgent Care  
1230 East Main Street, Mankato, MN 56001  
(507) 625-7684  
Monday-Friday: 8 a.m. - 8 p.m.  
Saturday: 8 a.m. - 5 p.m.  
Sunday: 11 a.m. - 5 p.m.
- Preserve any evidence found on or in the body, which may be necessary to the proof of criminal sexual violence or in obtaining a protection order. It is very important to preserve evidence. You may not know right now whether you will contact the police. But in case you later decide to, the evidence available immediately after the assault is crucial. To preserve evidence follow these recommendations: Prior to seeking medical attention, do not shower, bathe, wash your hands, brush your teeth, use the toilet or clean up in any way. Bring another set of clothes to the hospital since clothes will be collected as part of the evidence. If you have changed clothes, bring your soiled clothing with you for evidence collection. Additionally, you are encouraged to gather bedding, linens or any other pertinent articles that may be used for evidence. Secure them in a clean paper bag or clean sheet. Evidence found in phone records (texting), e-mails, and/or social media (Facebook, Snapchat, etc.) should also be preserved.
- Even after the immediate crisis has passed, contact confidential on campus and/or off campus resources—for emotional support, information, and/or advocacy.
- Report the conduct to the Title IX Coordinator at (507) 344-7745. The Title IX

## **Bethany Lutheran College Sexual Misconduct Policy**

Coordinator can arrange for interim measures and accommodations, including no contact orders. The Title IX Coordinator can provide information to students who wish to obtain protective or restraining orders with local authorities.

- File criminal charges with the local Police Department, if desired. Designated staff members will help the employee or student in reporting the assault to the police and/or in filing a criminal charge. Designated staff members will also accompany the complainant to the police station upon request.
- The College will assist the employee or student, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with the incident, and in preserving any materials relevant to a College disciplinary proceeding, regardless of whether the employee or student files a formal complaint with the College.

### **Emergency Contacts**

24-Hour Emergency – Local law enforcement: **911**

24-Hour Emergency – Campus Security: (507) 344-7888

### **On Campus Resources**

#### **On Campus Places to Report Sexual Misconduct**

The College encourages anyone who has experienced or knows of Sexual Misconduct to report the incident to the College by contacting the following:

- Ted Manthe, V.P. Student Affairs  
Title IX Coordinator  
Bethany Lutheran College  
700 Luther Drive  
Mankato, MN 56001  
Phone: (504) 344-7745  
Email: [titleix@blc.edu](mailto:titleix@blc.edu)
- Campus Security  
Phone: (507) 344-7888  
Email: [securitydirector@blc.edu](mailto:securitydirector@blc.edu)
- Joshua Pederson, Manager of Human Resources  
Phone: (507) 344-7840  
email: [joshua.pederson@blc.edu](mailto:joshua.pederson@blc.edu)
- Renee Tatge, Director of Residential Life  
Phone: (507) 344-7826  
email: [renee.tatge@blc.edu](mailto:renee.tatge@blc.edu)

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- Online Reporting Form  
<https://forms.blc.edu/title-ix-reporting/>

### On-Campus Confidential Resources

A person who speaks to a confidential resource should understand that if the person does not report the concern to the College, the College will be unable to provide certain interim actions or protective measures, conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential resource and do not report the concern to the College may later decide to file a complaint with the College or report the incident to local law enforcement.

Don Moldstad\*  
Director of Spiritual Life/Chaplain  
111 Trinity Chapel  
[donm@blc.edu](mailto:donm@blc.edu)  
Office: (507) 344-7312  
Cell: (507) 387-5456

Doyle Holbird\*  
Professor, Biology  
208 Meyer Hall  
[dholbird@blc.edu](mailto:dholbird@blc.edu)  
Office: (507) 344-7753

\*The above confidential resources serve in multiple roles on campus. If you are seeking assistance from one of the confidential resources in their role as a confidential resource, you should contact them through the office contact information listed above and should make clear prior to disclosing any information that you are seeking their assistance as a confidential resource. Students should know that professors cannot serve as a confidential resource for students who they are currently teaching, and if they receive information in the course of their duties other than in a spiritual capacity, they may be required to report it.

**Mental Health Counseling:** The College maintains an on campus Personal Counseling Center staffed by CFS – Christian Family Solutions counselors. Students and employees can request an appointment with a CFS counselor by calling 1-800-438-1772 or on-line at <https://appointment.christianfamilysolutions.org/request-appointment>.

**Student Health Services:** The on-campus Express Care Clinic operated by Mayo Clinic Health System is staffed Monday –Friday from 7:45 AM – 9:45 AM when classes are in session. Students may walk-in for a no-charge appointment. The Express Care Clinic is located at Luther Hall 105.

### Off Campus Resources

#### Off Campus Places to Report Sexual Misconduct

- For emergencies, call 911  
Mankato Police Department, non-emergency line (507) 387-8780

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- CADA, an off campus victim service agency  
(800) 477-0466 or (507) 625-3966  
24 hours a day/7 days a week
- RAINN (*Rape, Assault, and Incest National Network*)  
<https://www.rainn.org/>  
(800) 656-HOPE  
24-hour hotline; free and confidential

### Off Campus Confidential Resources, Counseling, and Support:

- Christian Family Solutions, the on-campus counseling services, also maintains offices off-campus clinic for students who may want to meet there. Students and employees can request an appointment with a CFS counselor by calling 1-800-438-1772 or on-line at <https://appointment.christianfamilysolutions.org/request-appointment>.

Christian Family Solutions – Mankato Location  
Counseling Care & Services  
44 Good Counsel Drive  
Mankato, MN 56001

- Blue Earth County Mental Health Center (507) 389-8319
- Minnesota Crisis Connection (866) 379-6363
- *Sexual Assault Response Team* (507) 385-4745
- *SAFELINE* 1-800-630-1425

### Health Care Options

Mankato Clinic Urgent Care  
1230 East Main Street, Mankato, MN 56001  
(507) 625-7684  
Monday-Friday: 8 a.m. - 8 p.m.  
Saturday: 8 a.m. - 5 p.m.  
Sunday: 11 a.m. - 5 p.m.

Mayo Clinic Health System (Emergency Room)  
1025 Marsh Street, Mankato, MN 56001  
(507) 625-4031 OR (800) 327-3721

Sexual Assault Response Team: (507) 385-4745

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Sexual Assault Nurse Examiners (SANEs) perform a special exam and collect evidence in a “rape kit.” There is no charge for the SANE exam.

You can have a SANE exam within 120 hours after the rape or Sexual Assault. The purpose of the SANE exam is to collect forensic evidence, receive preventative health care, and see if you have any physical injuries that need tending. The exam will take place at the Sexual Assault exam site, in a confidential room with trained staff and volunteers. During the exam, the SANE will collect evidence such as your clothing, DNA swabs, etc. Prior to the exam, preserve all evidence and do not shower, bathe, change clothes, douche, brush teeth, drink or eat, or throw away any clothing until police or medical personnel say it is okay. If you have done any of the above, it is still possible to do an exam, but it is not as effective. So if possible, please try to avoid any of these actions. Completing a SANE exam does not require you to file a police report. But, it does help preserve evidence in case you decide to file a police report at a later date.

### Victim Services and Legal Information and Assistance

Petition forms to apply for harassment restraining orders or to seek an order for protection are available at the **Blue Earth County Government Center** at 204 S. 5th Street, Mankato, MN 56001. Forms are also available [online from the Minnesota Judicial Branch website](#). Forms must be submitted to the Court Administrator at the Blue Earth Government Center during business hours. Individuals seeking a harassment restraining order or an order for protection may obtain assistance from the **Blue Earth County Court Administrator’s Office** at 204 S. 5th Street, Mankato, MN 56001.

Individuals seeking a harassment restraining order or an order for protection may seek assistance over the phone with the **MN Courts Self-Help Center** at (651) 259-3888.

The College maintains an on campus Personal Counseling Center staffed by CFS – Christian Family Solutions counselors. Students and employees can request an appointment with a CFS counselor by calling 1-800-438-1772 or on-line at <https://appointment.christianfamilysolutions.org/request-appointment>.

Off campus advocacy resources for both students and employees include:

- CADA, an off campus victim service agency  
(800) 477-0466 or (507) 625-3966  
24 hours a day/7 days a week
- *RAINN (Rape, Assault, and Incest National Network)*  
<https://www.rainn.org/>  
(800) 656-HOPE  
24-hour hotline; free and confidential

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For more information and assistance, individuals should contact the Title IX Coordinator at (504) 344-7745 or [titleix@blc.edu](mailto:titleix@blc.edu).

### **Visa and Immigration Assistance**

- BLC International Student Coordinator  
Office: Luther Hall Suite 207  
Phone: (507) 344.7346
- US Citizenship and Immigration Services  
2901 Metro Drive  
Suite 100  
Bloomington, MN 55425

### **Student Financial Aid**

- Director of Financial Aid  
Office: Old Main 228  
Phone: (507)344.7328