

ST. OLAF COLLEGE POLICY PROHIBITING DISCRIMINATION, HARASSMENT AND RELATED MISCONDUCT

I. COMMITMENTS AND CONTACTS

A. Commitments

The mission of St. Olaf College is to challenge students to excel in the liberal arts, examine faith and values, and explore meaningful vocation in an inclusive, globally engaged community nourished by Lutheran tradition. To advance this mission and its core values of educational excellence, spiritual well-being, community, and wholeness, St. Olaf is committed to providing a respectful, safe, and healthy environment for all its students, employees, and guests. To that end, the College prohibits all forms of discrimination based on an individual's race, color, creed, national origin, gender, gender identity, gender expression, sexual orientation, age, religion, disability, marital status, veteran status, or status with regard to public assistance. The College also prohibits all forms of sexual harassment, including but not limited to sexual assault, sexual violence, and sexual exploitation, and all forms of dating violence, domestic violence, and stalking. These behaviors are not only injurious to the individuals against whom they are committed, they are also damaging to the St. Olaf community. In addition, some forms of these behaviors are crimes.

The College is committed to administering its policies and procedures in a manner that is fair and impartial and that treats all persons with dignity and respect. When the College determines that a violation of this Policy has occurred, the College will take prompt and appropriate measures aimed at stopping the violation, preventing its recurrence and remedying its effects.

B. St. Olaf Title IX administrative staff

1. Title IX Coordinator

The *Title IX Coordinator* is responsible for coordinating all aspects of the College's Title IX compliance efforts, including the College's efforts to prevent gender-based *Prohibited Conduct* as described in Section III.A. The *Title IX Coordinator* is knowledgeable and trained in St. Olaf's policies and procedures, as well as the College's legal obligations under state and federal laws including Title IX, the Violence Against Women Act, the Minnesota Human Rights Act, and the Minnesota Campus Sexual Harassment and Violence law. The *Title IX Coordinator's* responsibilities include:

- ensuring the College's compliance with all administrative requirements of Title IX and other applicable state and federal laws;
- being available to advise individuals about St. Olaf's policy and reporting options;
- being available to provide assistance to employees of the College about how to respond to reports of *Prohibited Conduct* based on gender;
- coordinating the College's response to all complaints involving possible sex discrimination and/or harassment;
- explaining options, resources, and referrals to reporting parties regardless of whether their reports move to a resolution process;
- coordinating the provision of support services and/or interim protective measures;
- communicating with the *Reporting Party* and *Responding Party* about available support services, both on and off campus; and

- overseeing training, prevention and education efforts and periodic reviews of the campus climate and culture.

The Title IX Coordinator leads the *Title IX CORE Team* and *Title IX Team* as described below.

2. Title IX CORE Team

The Title IX COordinated REsponse (CORE) Team is responsible for collectively assessing reports of *Prohibited Conduct* and determining what actions the College will take in response to each report. The CORE Team seeks to ensure a prompt, thorough, consistent, fair and equitable process for the individuals involved while also safeguarding the well-being of the College community as a whole. The CORE Team includes the following individuals:

St. Olaf College Title IX CORE Team			
Title IX Coordinator	Kari Hohn	Tomson Hall 148	507-786-3465
Associate Dean of Students for Residence Life	Pamela McDowell	Tomson Hall 148	507-786-3011
Director of Public Safety	Fred Behr	Tomson Hall 10D	507-786-3666

The responsibilities of the CORE Team include:

- Conducting an initial assessment of reports to determine whether alleged conduct would be classified as *Prohibited Conduct* under this Policy;
- Evaluating whether and how the College will proceed under College policy in a manner that provides a prompt, thorough, fair and equitable process for the individuals involved;
- Overseeing intake and interim remedial measures for individuals who report *Prohibited Conduct*;
- Determining whether the College should investigate an alleged incident. In most cases, the CORE Team honors the request of a *Reporting Party* with respect to investigation. If a *Reporting Party* requests that the College not investigate and adjudicate a matter, the CORE Team will honor that request unless doing so would compromise the safety and well-being of the *Reporting Party* or the College community.
- Overseeing the comprehensive, accurate, and equitable provision of relevant information on College policies, practices, and resources to reporting parties and, in the event of investigations, responding parties;
- Coordinating the work of the Dean of Students Office and the Office of Public Safety in responding to each report of *Prohibited Conduct*;
- Determining whether communication with the St. Olaf community is necessary when a report of sexual assault, stalking, dating violence, or domestic violence has been received;
- Reviewing, and recommending improvements to, Title IX policies and protocols in light of the experiences of Reporting and Responding Parties;
- Coordinating and overseeing data collection and reporting in compliance with relevant federal and state statutes, regulations, and guidance.

The CORE Team seeks to protect and safeguard the privacy of all individuals involved in the process while performing a careful assessment of and response to reports of *Prohibited Conduct*.

4. Full Title IX Team

The *Title IX Team* is led by the *Title IX Coordinator* and includes the following individuals:

St. Olaf College Title IX Team			
Title IX Coordinator	Kari Hohn	Tomson Hall 148	507-786-3465
VP for Student Life	Hassel Morrison	Tomson Hall 148	507-786-3503
Director of Public Safety	Fred Behr	Tomson Hall 10D	507-786-3666
Vice President for Mission	Jo Beld	Tomson Hall 259	507-786-3632
Athletic Director	Ryan Bowles	Skoglund Athletic Center 1114	507-786-3965
Dean of Students	Rosalyn Eaton	Tomson Hall 148	507-786-3615
Associate Dean of Students	Justin Fleming	Tomson Hall 148	507-786-3615
VP for Human Resources	Michael Goodson	Tomson Hall 180	507-768-3068
Assistant Dean for Programming and Assessment	Joshua Lee	Tomson Hall 148	507-786-3011
Director of International and Off-Campus Studies	Jodi Malmgren	Tomson Hall 380	507-786-3375
Associate Dean of Students for Residence Life	Pamela McDowell	Tomson Hall 148	507-786-3011
Assistant Director of Student Activities for Wellness	Jon Mergens	Buntrock Commons 112A	507-786-3487
Associate Dean of Students	Tim Schroer	Tomson Hall 148	507-786-3615

The responsibilities of the Title IX Team include:

- Overseeing the content and implementation of this Policy;
- Overseeing and assisting with education and prevention efforts aimed at eliminating *Prohibited Conduct*;
- Receiving reports of *Prohibited Conduct*, and forwarding them to the *Title IX Coordinator* for intake, including initial support and interim remedial measures;
- Overseeing efforts to educate the St. Olaf community concerning Title IX policies and procedures;
- Overseeing efforts to assess the campus climate and to respond to findings from that assessment;
- Ensuring College programs and activities are equitable for participants of all genders;
- Collaborating with the Title IX CORE Team;
- Overseeing the use of College resources in carrying out this Policy and achieving its purposes.

C. Governmental authorities

The governmental authorities responsible for overseeing St. Olaf's compliance with applicable federal and state law, as well as with this Policy, are the following:

1. U.S. Department of Education Office for Civil Rights

The Office for Civil Rights may be contacted at the following:

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](tel:312.730.1560)
TDD: [877.521.2172](tel:877.521.2172)
Email: OCR.Chicago@ed.gov

2. Minnesota Department of Human Rights

The Minnesota Department of Human Rights may be contacted at the following:

Minnesota Department of Human Rights
Freeman Building
625 Robert Street North
Saint Paul, MN 55155
800-657-3704 (phone)
800-627-3529 (fax)
800-627-3529 (TDD)
<http://mn.gov/mdhr/>
Info.MDHR@state.mn.us

II. GENERAL POLICY ON PROHIBITED DISCRIMINATION AND HARASSMENT

A. Notice of Non-Discrimination

St. Olaf College is committed to providing an inclusive and welcoming environment for all students, faculty, staff and visitors to our community. The College prohibits all forms of *discrimination* and *harassment* based upon an individual's *legally protected status* including *race, color, creed, national origin, gender, gender identity, gender expression, sexual orientation, age, religion, disability, marital status, veteran status, or status with regard to public assistance*. Failure to respond appropriately to a request for reasonable accommodations from a qualified person with a disability or when based upon an individual's bona fide religious beliefs is another form of prohibited discrimination. Harassment based upon an individual's legally protected status is also a form of prohibited discrimination. Finally, this policy also prohibits retaliation against an individual who opposes practices prohibited by this policy or against an individual who assists the College or other authorities in investigating an alleged violation of this policy.

B. Definition of "Prohibited Discrimination"

Prohibited discrimination means treating an individual differently based on the individual's *legally protected status* in a manner that significantly interferes with or limits the individual's ability to participate in St. Olaf programs or activities. For an employee or applicant for employment, prohibited discrimination would be any action that interferes with an individual's hiring, promotion, job duties, or other material terms and conditions of employment. For a student, prohibited discrimination would be any action that interferes with the student's access to or benefits from educational programs or activities such as admission into programs or activities, grades, assignments and coursework, housing, participation on a team, program or activity, or other adverse actions. Discrimination against volunteers, guests, visitors and any other participants in College programs or activities is also prohibited when based upon an individual's *legally protected status*.

C. Definition of “Harassment”

Harassing behavior based upon an individual’s *legally protected status* is another form of *prohibited discrimination*. Harassment includes verbal, physical, electronic, or other conduct directed at an individual that substantially interferes with the individual’s participation in a College program or activity, including a student’s educational environment and a staff or faculty member’s work environment.

When submission to or rejection of harassing behavior is used, explicitly or implicitly, as the basis for decisions affecting an individual’s participation in a College program or activity (including a student’s educational opportunities or a staff or faculty member’s work), this is one form of prohibited harassment, commonly referred to as “quid pro quo” harassment.

Another form of prohibited harassment is often referred to as “hostile environment” harassment. This type of harassment involves unwelcome conduct based on an individual’s *legally protected status* when such conduct is severe or pervasive enough to substantially interfere with the individual’s participation in a College program or activity. For students, a hostile environment would substantially interfere with their ability to learn or other aspects of their educational environment. For faculty or staff members, a hostile environment would substantially interfere with their work environment.

St. Olaf strives to provide a welcoming, respectful and healthy workplace and educational environment for all students, faculty, staff and visitors to the College. The College is committed to promptly, impartially, and equitably addressing and resolving all reports of prohibited discrimination and harassment. When the College is notified of behavior in violation of this Policy, it is committed to taking prompt and appropriate action to stop it, prevent it from recurring, and correct its effects.

D. Groups legally protected from discrimination and harassment

Consistent with the Minnesota Human Rights Act and federal laws including Title VII, Title IX, the Rehabilitation Act and the Americans with Disabilities Act, St. Olaf College prohibits discrimination and harassment based upon race, color, creed, national origin, gender, gender identity, gender expression, sexual orientation, age, religion, disability, marital status, veteran status, or status with regard to public assistance.

The following is additional information regarding definitions and the legal protections afforded each of these groups of individuals:

- *Race*: An individual’s actual or perceived racial or ethnic ancestry or physical characteristics associated with a person’s race, such as a person’s color and physical features.
- *Color*: An individual’s skin complexion, shade or tone.
- *Creed*: An idea or set of beliefs (or non-beliefs) that guides the actions of an individual or group.
- *National origin*: An individual’s actual or perceived country or ethnicity of origin.
- *Gender*: The range of characteristics pertaining to and differentiating between masculinity or femininity, typically related to one’s assigned sex at birth.

- *Gender identity*: The gender with which an individual identifies psychologically regardless of what sex was assigned at birth.
- *Gender expression*: How someone expresses gender through appearance, behavior or mannerisms. A person's gender expression may or may not be identical to the individual's gender identity or assigned sex at birth.
- *Sexual orientation*: The inclination to develop intimate/sexual relationships with people of the same or different gender or irrespective of gender.
- *Age*: The number of years a person has lived. Under the federal Age Discrimination in Employment Act, employees who are 40 years old and older are legally protected from *prohibited discrimination* and *harassment*. Minnesota law protects employees 18 years old and older from *prohibited discrimination* and *harassment*.
- *Religion*: All aspects of an individual's bona fide religious observances or practices. In addition to prohibiting different treatment based upon an individual's religious beliefs, the College will provide reasonable accommodations of religious beliefs and practices.
- *Disability*: A person with a physical or mental impairment that substantially limits one or more major life activities; or who has a record of such impairment; or who is regarded as having such impairment is protected from discrimination and harassment under state and federal laws. With regard to employees, the College will provide reasonable accommodations to aid employees with a disability in performing the functions of their jobs. With regard to academic accommodations for students with disabilities, the College will provide auxiliary aids and services to assist a student in participation in the College's programs and activities. Reasonable accommodations and auxiliary aids and services are not required if they would cause an undue burden on the College or if they would fundamentally alter the nature of the College's program or activity.
- *Marital status*: Marital status refers to whether a person is single, married, remarried, divorced, separated or a surviving spouse. With regard to staff and faculty, this includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of an employee's spouse or former spouse.
- *Veteran status*: Certain individuals who have served in the United States military are protected from *prohibited discrimination* and *harassment*. Covered veterans include disabled veterans, veterans of the Vietnam era, and other veterans under state and federal laws.
- *Status with regard to public assistance*: This means the condition of being a recipient of federal, state or local assistance, or of being a tenant receiving federal, state or local subsidies including rental assistance or supplements.

III. GENERAL POLICY ON PROHIBITED CONDUCT

A. Policy statement on *Prohibited Conduct*

In accordance with Title IX of the Educational Amendments of 1972, this Policy defines *Prohibited Conduct* and the College's process for responding to it. *Prohibited Conduct* is not only a violation of this Policy, but an offense to our community. It is also prohibited by various federal and state laws,

including Title IX, the Violence Against Women Act (VAWA), and the Minnesota Human Rights Act. Certain types of *Prohibited Conduct* may also constitute crimes under Minnesota criminal laws.

While St. Olaf prohibits all forms of unlawful discrimination and harassment based upon an individual's *legally protected status*, this Policy is focused upon the College's prohibitions against *gender discrimination* and *sexual harassment* and other forms of gender-based prohibited conduct. In conformity with the College's General Policy on Prohibited Discrimination and Harassment, the College expressly prohibits all forms of *sexual assault*, *sexual violence*, *sexual exploitation*, and any other forms of *sexual harassment*. The College also prohibits all forms of *dating violence*, *domestic violence*, and *stalking*. *Retaliation* against a person who in good faith reports suspected *Prohibited Conduct* or against an individual who assists in an investigation into a report of *Prohibited Conduct* is also strictly prohibited.

For ease of reference throughout this Policy *sexual assault*, *sexual violence*, *sexual exploitation*, *sexual harassment*, *dating violence*, *domestic violence*, *stalking*, and *retaliation* are collectively referred to as "*Prohibited Conduct*."

St. Olaf students who violate this Policy on Prohibited Conduct will face disciplinary *sanctions* up to and including suspension or expulsion.

St. Olaf faculty or staff who violate this policy will face *sanctions* up to and including termination of employment.

Other individuals who are not employees or students of St. Olaf and who commit *Prohibited Conduct* may be subject to whatever limited *sanctions* St. Olaf is able to impose including trespassing such individuals from the St. Olaf campus or from attending College-sponsored events.

Questions or concerns regarding *Prohibited Conduct* may be directed to the St. Olaf College *Title IX Coordinator* or any member of the College's *Title IX Team*.

B. Scope of policy

The College will apply this Policy to address *Prohibited Conduct* occurring under any one or more of the following circumstances:

- *Prohibited Conduct* occurring on campus or on other property owned by St. Olaf College;
- *Prohibited Conduct* committed in connection with any College program or activity, whether on or off campus, including affiliated domestic and international off-campus programs;
- *Prohibited Conduct* occurring in connection with any other academic, educational, co-curricular, athletic, residential and other College program or activity;
- *Prohibited Conduct* occurring on-line or electronic conduct such as emails, text messages, and social media that is committed by or directed to any St. Olaf student, employee, or other individual participating in a St. Olaf program or activity; and
- Any other off-campus *Prohibited Conduct* that is deemed to have the potential of adversely impacting the educational and/or workplace environment of any St. Olaf student, employee, or other individual participating in a St. Olaf program or activity.

St. Olaf College is both obligated and committed to addressing *Prohibited Conduct*, and the College strongly encourages any individual who knows of or has been subject to *Prohibited Conduct* to report the incident to appropriate College authorities in accordance with the College's *reporting procedures*, even if the individual is not otherwise obligated to report by virtue of being a *Responsible Employee* as

defined in Section IV.A.1, and even if the individual is uncertain whether an incident involves *Prohibited Conduct* or falls within the scope of this policy.

C. Definitions of *Prohibited Conduct* and related terms under this Policy

1. Gender discrimination

Gender discrimination is any distinction, preference, or detriment to an individual that is based upon the individual's gender. It is conduct motivated by an individual's gender that excludes an individual from participation in, denies the individual benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's participation in a St. Olaf program or activity.

Examples of gender discrimination include:

- Treating an employee or job applicant adversely because of gender in decisions involving hiring, promotion, and job assignments;
- Treating a prospective or enrolled student adversely because of gender in decisions involving admissions, financial aid or scholarships, grades, academic assignments, or campus housing decisions;
- Denying or limiting volunteers or visitors from participating in programs or activities because of their gender.

Because *sexual harassment*, *sexual violence* and *sexual exploitation* can adversely affect an individual from participating in programs and activities, these are additional forms of gender discrimination.

2. Sexual harassment

Sexual harassment is a form of sex discrimination. It includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal, nonverbal or physical conduct or communication of a sexual nature when:

- submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's educational experience or employment, or the individual's submission to or rejection of such conduct is used as the basis of an educational program or activity decision or employment decision affecting such individual ("quid pro quo harassment"); or
- such conduct has the purpose or effect of substantially and unreasonably interfering with an individual's education or employment or creating an intimidating, hostile, or offensive educational or work environment ("hostile environment harassment").

Sexual harassment includes gender-based harassment. Gender-based harassment is non-verbal, verbal or physical harassment directed at an individual or a group of individuals solely on the basis of gender, whether or not such conduct is sexual in nature. It may include harassment based on stereotypical notions of what is female/feminine and male/masculine or a failure to conform to those gender stereotypes.

Actions that can constitute sexual harassment include:

- Unwelcome sexual flirtations, advances, or propositions;
- Requests for sexual favors;
- Verbal abuse of a sexual nature, obscene language, off-color jokes, verbal commentary about an individual's body, sexual innuendo, and gossip about sexual relations;

- The display of derogatory or sexually suggestive posters, cartoons, drawings, objects, notes, letters, emails, or text messages;
- Visual conduct such as leering or making obscene gestures;
- Recording video or photographs of a sexual nature without *consent*;
- Cyber harassment, including but not limited to disseminating information, photos, or video of a sexual nature without *consent*;
- Engaging in conduct of a sexual nature which creates an intimidating, hostile, or offensive academic or work environment (e.g., *sexual assault*, *sexual exploitation*, offensive physical contact, obscene messages and gestures); and
- Punishing or threatening to take adverse action against a subordinate or student for refusing to comply with sexual demands.

How Does this Policy Differ from The College's Consensual Relations Policy?

This Policy prohibits all unwelcome conduct of a sexual nature. In addition, the College deems sexual and romantic relationships between persons of unequal status as inherently problematic, even when they are or appear to be entirely consensual. To address these concerns, St. Olaf has a separate *Consensual Relations Policy* which:

- **strongly discourages** romantic or sexual relationships between staff and faculty members where there is a disparity in power or reporting relationships; and
- **prohibits** any and all romantic or sexual relationships between a faculty or staff member and any student enrolled at the College.

If a report is brought to the College's attention indicating that a prohibited relationship exists, the College will review such allegations under its *Consensual Relations Policy*. If the report also includes allegations of *sexual harassment* or some other form of *Prohibited Conduct*, the matter will also be reviewed under this Policy. Even in instances where a relationship appears to be completely consensual and does not involve allegations of *Prohibited Conduct*, a violation of the *Consensual Relations Policy* is a serious breach of community standards and of College policy and will result in disciplinary action up to and including termination of employment.

3. Sexual assault

Sexual assault is a form of *sexual harassment* and *sexual violence*. Sexual assault is any unwelcome *sexual contact* with another person who does not or cannot give *consent*. This may or may not include force. Sexual assault includes, but is not limited to:

- 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 any person, without the *consent* of the victim; a victim may be a person who is penetrated without consent or a person who is forced to penetrate another person without consent);
- Fondling (the touching of the private body parts 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 penetration or other form of *sexual contact* with a person who is under the statutory age of *consent*).

4. Sexual violence

Sexual violence is a severe form of *sexual harassment*. It includes *sexual assault*, *dating violence* and other forms of nonconsensual *sexual contact*. Depending upon the circumstances, other forms of sexual violence may include *domestic violence* and *stalking* (although it is important to note that all forms of *domestic violence* and *stalking* are prohibited under this Policy regardless of whether they also involve nonconsensual *sexual contact*).

5. Sexual exploitation

Sexual Exploitation is a form of *sexual harassment* that involves one or more of the following behaviors committed for any purpose, including sexual arousal or gratification, financial gain, or other personal benefit:

- taking sexual advantage of another person without *consent*;
- taking advantage of another's sexuality; or
- extending the bounds of consensual *Sexual Contact* without the knowledge of the other individual.

Examples of Sexual Exploitation include, but are not limited to: threatening to disclose an individual's sexual orientation, gender identity, or gender expression; observing another individual's nudity or *sexual contact*, or allowing another to observe the same, without the knowledge and *consent* of all parties involved; non-consensual streaming of images, photography, video, or audio recording of *sexual contact* or nudity, or distribution of such without the knowledge and *consent* of all parties involved; prostituting another individual; knowingly exposing another individual to a sexually-transmitted infection without the individual's knowledge; misleading another regarding use of contraception; and inducing *incapacitation* for the purpose of taking sexual advantage of another person.

6. 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 will be determined based on the statement of the individual alleging the dating violence occurred, and based upon a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse, severe and pervasive emotional, psychological, or verbal abuse, or the threat of such abuse.

7. Domestic violence

Domestic Violence is violence committed by an individual who is:

- a current or former spouse or intimate partner of the victim;
- a person with whom the victim shares a child in common;
- cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- considered to be similar to a spouse under Minnesota's domestic or family violence laws; or
- any other person subject to Minnesota's domestic or family violence laws.

Minnesota law defines domestic violence to include violence committed between parents and children, blood relatives, persons who are presently residing together or who have resided together in the past, and persons involved in a significant romantic relationship. The following are examples of conduct that can constitute domestic violence: physical harm, bodily injury or assault; the infliction of fear of imminent physical harm, bodily injury, or assault; terroristic threats; criminal sexual conduct; or interference with an emergency call.

8. Stalking

Stalking means engaging in two or more acts directed at a specific person that would cause reasonable people to:

- fear for their safety;
- fear for the safety of others; or
- suffer substantial emotional distress.

Stalking can be committed directly by the individual engaging in the stalking behavior or indirectly through third parties. It includes actions such as following, monitoring, observing, surveilling, threatening, or unreasonably communicating to or about a person; or interfering with a person's property.

When the behavior is serious enough to cause reasonable fear for safety or substantial emotional distress, examples of stalking behavior can include:

- Repeated, unwanted, intrusive, or frightening communications by phone, mail, text, email and/or social media;
- Repeatedly leaving or sending unwanted items or gifts;
- Following or lying in wait for a person at places such as the person's residence hall, school activities, work, or recreational places;
- Making direct or indirect threats to harm a person or a person's relatives, friends, or pets;
- Damaging or threatening to damage a person's property;
- Posting information or spreading rumors about a person on the internet, in a public place, or by word of mouth; or
- Unreasonably obtaining personal information about a person for no legitimate purposes.

Stalking behavior can also be a crime. Minnesota law defines stalking as "engag[ing] 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."

9. Retaliation

St. Olaf College strictly prohibits retaliation against individuals who report *Prohibited Conduct* or against individuals who assist in an investigation or adjudication of a report of *Prohibited Conduct*. Encouraging or assisting others to engage in retaliation also violates this Policy.

Retaliation means any materially adverse words, actions or threats against an individual who engages in protected activity that would discourage a reasonable person from engaging in such protected activity. Protected activity includes an individual's good faith:

- reporting of *Prohibited Conduct*;
- participation in an investigation or adjudication of reported *Prohibited Conduct*; or

- opposition to policies, practices or actions that the individual reasonably believes are in violation of this Policy.

Retaliatory acts may include, but are not limited to: adverse changes in employment status or opportunities; adverse academic action; adverse changes to academic, educational and extra-curricular opportunities; harassment or intimidation; acts or comments intended to embarrass the individual; or seeking out or attempting to discover the parties and witnesses involved in a report for the purpose of influencing their participation or statements, or taking adverse action against them.

Retaliation may be found even when an underlying report of *Prohibited Conduct* made in good faith was not substantiated. Retaliation may be committed by any of the parties or witnesses in a College resolution process, their friends or representatives, or any other individuals.

Retaliatory conduct by community members and third parties is prohibited regardless of whether it occurs on or off campus, in person, or through social media, e-mail, or other forms of communication.

10. Sexual contact

Sexual contact is defined under Minnesota law as the intentional touching by an individual of another's intimate parts (including an individual's breasts, inner thighs, buttocks, genitals and/or groin area, whether clothed or unclothed); or the coerced touching by an individual of another's intimate parts. Sexual contact also includes the intentional removal or attempted removal of clothing covering an individual's intimate parts.

11. Consent

Consent is words or overt actions by a person clearly and affirmatively communicating a freely-given, present agreement to engage in a particular form of *sexual contact*. 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 the mutually agreed-upon *sexual contact*. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining consent.

All parties to a particular form of *sexual contact* must provide consent, and such consent must be present throughout the activity. It is the responsibility of the individual who is initiating each *sexual contact* to obtain consent before proceeding to engage in the *sexual contact*.

Even when consent is given, it may be retracted at any time. When consent is withdrawn, the *sexual contact* for which consent was initially provided must stop immediately. Any words or overt actions can communicate withdrawal of consent. As is the case with communicating the existence of consent, verbal communication is usually the clearest way of communicating withdrawal of consent.

A person can only provide consent when that person:

- Acts freely and voluntarily, without *coercion or force* or otherwise feeling unduly pressured, threatened, intimidated;
- Is informed about the nature of the *sexual contact* involved;
- Is not *incapacitated*, whether from alcohol, other drugs, or other causes, such that they cannot understand the fact, nature, or extent of the *sexual contact*;

- Is conscious;
- Is of legal age to consent (16 years old in Minnesota with some exceptions for younger individuals who are close in age).

These requirements for consent mean that *sexual contact* with someone who is threatened, coerced, intimidated, uninformed, incapacitated, asleep or otherwise unconscious, or not of legal age, is by definition sexual assault.

In addition, consent to a particular *sexual contact* cannot be inferred from:

- Consent to a different form of *sexual contact*;
- An existing or prior dating, sexual, romantic or marital relationship;
- Silence that is not otherwise accompanied by overt actions indicating consent;
- An absence of physical resistance or verbal protest; or
- Prior sexual activity with other individuals.

Verbal and Non-verbal Examples of Consent

Whether a sexual interaction is consensual will depend upon the circumstances. As such, it is difficult to provide definitive guidance on whether certain communications demonstrate consent. The following are a range of communications that individuals might identify as a sign of consent. Those in shaded green are indicative of unambiguous affirmative consent. Those shaded in yellow are less clear, and may or may not be a sufficient indication of consent depending upon other circumstances. Those shaded in red are, when viewed alone, highly unlikely to be deemed an expression of consent.

“Yes!”	Nodding yes after being asked for consent	“No”
“I would like...”	Giving a thumbs up in response to a request	“I don’t know...”
“I want you to...”	Smiling in response to a request	“Can you use a condom?”
		Silence or a lack of resistance

Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining consent.

12. Coercion or force

Coercion or force includes conduct, intimidation, and expressed or implied threats of physical or emotional harm that would reasonably place an individual in fear of immediate or future harm and that are used in order to persuade or compel someone to engage in *sexual contact*.

Any *sexual contact* occurring after a person has engaged in coercion or force will be presumed non-consensual, even if the particular *sexual contact* that occurs is different from the form of *sexual contact* in which the individual was attempting to engage, and even if the other individual uses words or actions that would otherwise appear to convey consent.

Examples of coercion or force include causing the deliberate *incapacitation* of another person; conditioning an academic benefit or employment advantage on submission to the *sexual contact*; threatening to harm oneself if the other party does not engage in *sexual contact*; or threatening to disclose an individual's sexual orientation, gender identity, gender expression, or other personally sensitive information if the other party does not engage in the *sexual contact*.

13. Incapacitation

Incapacitation means an individual's physical and/or mental inability to make informed, rational judgments that is known or reasonably should have been known to the individual initiating *sexual contact*. An individual who is incapacitated is unable to give *consent* to *sexual contact*. States of incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that *sexual contact* is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to *consent* to *sexual contact*.

Regardless of their own level of intoxication, individuals who are initiating *sexual contact* are always responsible for obtaining consent before proceeding. Intoxication is never an excuse for or a defense to committing *sexual assault* or any other *Prohibited Conduct*. Use of drugs or alcohol does not diminish one's responsibility to obtain *consent*, or reduce one's personal accountability or criminal liability. The issue is whether the individual initiating *sexual contact* knew, or a reasonable sober person in the position of the individual initiating *sexual contact* should have known, that the other person was incapacitated.

Alcohol or drug use is a common cause of incapacitation. The mere use of drugs or alcohol, or even intoxication from drugs or alcohol is not by itself proof of incapacitation. Where alcohol or drug use is involved, incapacitation is a state beyond intoxication, impairment in judgment, or drunkenness. Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is incapacitated, and therefore unable to give *consent*, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

- Making decisions about the potential consequences of *sexual contact*;
- Appraising the nature of one's own conduct; or
- Ability to communicate *consent* or lack of consent to engage in *sexual contact*.

There are common signs that should alert a reasonable sober person as to whether an individual might be incapacitated. Typical signs include slurred or incomprehensible speech, clumsiness, difficulty walking, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know who I am?" If there is any doubt as to the level or extent of one's own or the other individual's intoxication or incapacitation, the safest course of action is to forgo or cease any *sexual contact*.

IV. REPORTING ALLEGED PROHIBITED CONDUCT

A. Reporting responsibilities of employees and students who become aware of *Prohibited Conduct*

At St. Olaf, all faculty and staff employees, as well as student employees in the course of performing their job responsibilities, are either *responsible employees* or *confidential resources*, with reporting responsibilities as defined below.

1. Responsible Employees

Most St. Olaf employees are “responsible employees” who are obligated to report to the *Title IX Coordinator* or any other member of the *Title IX Team* any information they receive about *Prohibited Conduct*.

All employees of St. Olaf College who are not *confidential resources* as defined in Section IV.A.2 are *responsible employees* who are required by the College to immediately share all known details about any incident of *Prohibited Conduct* with the *Title IX Coordinator* or other member of the *Title IX Team*. Reports may be made in person, by telephone, or electronically (see Section IV.C. for details.) Before obtaining information from a *Reporting Party*, responsible employees should inform the *Reporting Party* of the responsible employee’s reporting obligations and inquire whether the *Reporting Party* would rather speak with a *confidential resource*.

While *responsible employees* may report to any member of the *Title IX Team*, they are encouraged to report directly to the *Title IX Coordinator* using any of the reporting methods described in Section IV.C. The responsible employee’s report should provide all known details including the date, time and location of the incident; the names of individuals involved and other individuals who may have witnessed the incident; and a brief description of the incident. Although responsible employees are expected to provide all information they have learned from a *Reporting Party*, responsible employees should not attempt to investigate or gather any details about the incident beyond the information that the *Reporting Party* seeks to share.

Prompt and complete reporting will assist the College in providing timely support and an effective, consistent and fair institutional response. While responsible employees are obligated to report any information they may have regarding *Prohibited Conduct*, they should respect the confidentiality of the individuals involved by not further disclosing information to any other individuals without the *Reporting Party*’s authorization.

2. Confidential Resources

Confidential resources are individuals who can receive *confidential communications*, defined as communications which cannot be disclosed to another person without the consent of the individual who provided the information, unless legally authorized or required, such as when the communications involve allegations of the physical or sexual abuse of a child or vulnerable adult, or an imminent threat of serious injury to any person. Among the College’s employees, only those individuals designated by the College as *confidential resources* may receive such confidential communications without being required to report the information they receive to a member of the *Title IX Team*. At St. Olaf, these designated *confidential resources* include the following:

Counseling Center

Boe House, 1308 St. Olaf Ave.

vonruden@stolaf.edu

507-786-3062

College Pastors

Boe Memorial Chapel, Lower Level

marohl@stolaf.edu, fick@stolaf.edu

507-786-3092

Student Health Service

Tomson Hall 160

healthservices@stolaf.edu

507-786-3064

Sexual Assault Resource Network (SARN)

Buntrock Commons 14

sarn@stolaf.edu

507-786-3777

3. Students

Students are strongly encouraged to report known or suspected incidents of *Prohibited Conduct* to the *Title IX Coordinator* or any other members of the *Title IX Team*. Students are not required to report information to one of these individuals unless they are also a student employee of the College and become aware of *Prohibited Conduct* as a result of performing their job for the College. With the exception of students who qualify and are serving as *confidential resources*, student employees who learn about *Prohibited Conduct* during the course and scope of their employment with the College are *responsible employees* who are obligated to report that information to a member of the *Title IX Team*.

B. Overview of options for individuals who have experienced *Prohibited Conduct*

1. Speaking with a Confidential Resource

Individuals who have experienced *Prohibited Conduct* may obtain support and basic information about College, community, and law enforcement options and resources from any of the Confidential Resources identified in Section IV.A.2. In addition to providing emotional support and general information, different confidential resources may provide different kinds of additional assistance. The College's Counseling Center and Student Health Services staff can assist individuals with obtaining medical assistance. The College Pastors provide pastoral care and spiritual direction. Peer support is available from trained and supervised student advocates in the Sexual Assault Resource Network.

2. Meeting with the *Title IX Coordinator* to obtain information and assistance

St. Olaf recognizes that deciding whether to speak with the *Title IX Coordinator* and what course of action to pursue upon reporting are difficult decisions that often unfold over time. A *Reporting Party* may choose to report to the *Title IX Coordinator*, not necessarily for the purpose of initiating one of the College's *Resolution Processes*, but only to receive more detailed information about College policy and access to support resources and *interim protective measures* the College can take to sustain the *Reporting Party's* educational and co-curricular experience. Reporting to the *Title IX*

Coordinator provides individuals the opportunity to better understand their options and to assess whether they wish to notify law enforcement, initiate a resolution process under St. Olaf's process under this Policy, and/or pursue another course of action.

Even if Reporting Parties are not interested in or uncertain about initiating a *Resolution Process*, they are strongly encouraged to report to the *Title IX Coordinator* so that they can better understand and readily access the support services and other options available to them under this Policy. Reporting to the *Title IX Coordinator* does not obligate the *Reporting Party* to initiate a *Resolution Process*. The College will make every effort to honor an individual's preferences about whether and how to proceed; only in rare circumstances, when the College determines that there are overriding safety concerns, will the College itself initiate the Formal Resolution Process. Support resources and *interim protective measures* are available regardless of the course of action chosen.

3. Reporting to the College to initiate an informal or formal resolution process

A *Resolution Process* is generally initiated after an individual who reports having been subjected to *Prohibited Conduct* authorizes the College to proceed with either the *Informal Resolution Process* or the *Formal Resolution Process*. In rare circumstances, the *Formal Resolution Process* may be initiated by the College when the *Title IX CORE Team* determines that there are overriding *risk factors* that warrant moving forward with the *Formal Resolution Process* in order to protect the safety of the *Reporting Party* or of the St. Olaf community as a whole. Normally, the parties are provided written confirmation that the Formal Resolution Process has been initiated. This notification will identify the *Prohibited Conduct* alleged to have occurred with sufficient details including the identities of the parties involved, the specific conduct allegedly constituting *Prohibited Conduct*, and the date and location of the alleged incident(s). The written notification will also provide the identity of the investigator/adjudicator, the identities of the adjudication panel, and other general information about the process.

A *Reporting Party* may initiate a resolution process by speaking with the *Title IX Coordinator*. A resolution process may be initiated at any time. Some Reporting Parties choose to authorize the College to proceed with a resolution process at the time they make their initial report of *Prohibited Conduct*; some are undecided and prefer to take some time to weigh their options; and some decide not to initiate a resolution process at the time of their initial report, but later change their minds and authorize the College to proceed.

4. Reporting to law enforcement

Individuals who believe they have been subject to *sexual violence* (including *sexual assault* and *sexual exploitation*), *dating violence*, *domestic violence* and/or *stalking* are strongly encouraged to notify the Northfield Police Department. If the *Reporting Party* wishes it, a member of the *Title IX Team* will accompany individuals to meetings with law enforcement. Meetings can normally be arranged on campus or at the Northfield Police Department depending upon the wishes of the *Reporting Party*. In most instances, reporting to the police does not require filing criminal charges, and the individual reporting to the police maintains control over whether and when criminal charges will be pursued.

Sexual misconduct may be reported to law enforcement by contacting the Northfield Police Department:

Emergency Number: 911

Non-Emergency Number: 507-645-4475

See Section IV.D. for additional information about reporting to law enforcement and the assistance the College can provide for individuals who choose to report.

C. Ways of reporting to the College

St. Olaf is committed to providing reporting options through multiple avenues which are broadly accessible to all members of the St. Olaf community. Reports may be made by completing the College's [on-line reporting form](#), which is automatically delivered to the *Title IX Coordinator*, or by directly contacting the *Title IX Coordinator* or another member of the *Title IX Team* in person, by telephone, or by e-mail. Reports may be made anonymously; however, depending upon the information provided in a report, the College may be limited in its ability to respond. Individuals who report *Prohibited Conduct* have the right to access their description of the incident as it was reported to the College. To request access to this information, the individual should contact the *Title IX Coordinator*.

1. Reporting to the Title IX Coordinator

As indicated in Section I.B.1, the *Title IX Coordinator* provides information and assistance to all parties involved in reports of *Prohibited Conduct* under this policy. Reporting Parties may wish to report directly to the *Title IX Coordinator* to have immediate access to services.

Following receipt of a report, The *Title IX Coordinator* will confer with the *Reporting Party* in order to:

- Assess the *Reporting Party's* safety and well-being and identify available support and assistance;
- Inform the *Reporting Party* of the right to seek medical treatment and explain the importance of obtaining and preserving forensic and other evidence;
- Inform the *Reporting Party* of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- Inform the *Reporting Party* about resources available at the College and in the community, the right to seek appropriate and available remedial and protective measures, and how to request those resources and measures;
- Inform the *Reporting Party* of the right to seek *Informal Resolution* (when available) or to initiate an investigation under the *Formal Resolution Process*, seek to obtain the *Reporting Party's* consent to initiate the *Formal Resolution Process*, and discuss with the *Reporting Party* any concerns or barriers to participating in a *Resolution Process*;
- Explain the College's prohibition against *retaliation* and that the College will take prompt action in response to any act of *retaliation*.

1. Reporting to another member of the Title IX Team

Individuals may choose any member of the *Title IX Team* (see Section I.B.4.) as the most appropriate person to receive their report. The *Title IX Coordinator* is notified of all reports received by any member of the team to enable them to fulfill their responsibilities as described in Sections I.B.1 and I.B.2. An individual who reports to a member of the Title IX Team will be referred to the Title IX Coordinator for further information as described in Section IV.C.1.

2. Reporting to Public Safety

Individuals are strongly encouraged to notify St. Olaf's Public Safety Office of instances of *Prohibited Conduct*. Public Safety provides 24-hour security services, patrol and response

throughout the year. Public Safety is dedicated to the safety and protection of the entire St. Olaf community. Public Safety is not a division of the Northfield Police Department, and information provided to Public Safety will not be reported to the Police unless authorized by the *Reporting Party* (or such reporting is mandated under Minnesota's child or vulnerable adult abuse and neglect statutes).

3. Reporting to other faculty and staff

All employees of the College, with the exception of the *Confidential Resources* identified in Section IV.A.2, are *Responsible Employees* required to report to a member of the Title IX Team any information they receive concerning *Prohibited Conduct*. Individuals should be aware that any information they share with a faculty or staff member concerning alleged *Prohibited Conduct* will subsequently be reported to the *Title IX Coordinator* or other member of the *Title IX Team*.

4. Reporting anonymously

The College maintains an online reporting form (<http://wp.stolaf.edu/title-ix/report-sexual-violence/>) for any member of the St. Olaf community to anonymously report *Prohibited Conduct* that the reporter has either experienced or witnessed. The information provided is forwarded to the *Title IX Coordinator* and utilized for reporting purposes to state and federal authorities. The information is also used by the College to better understand the incidence of *sexual violence* in our community and to aid St. Olaf in its education, prevention, and response efforts. If a *Reporting Party* is identified in an anonymous report, the *Title IX Coordinator* will contact the *Reporting Party* to offer information and other services. The provision of an anonymous report is not used to initiate the *Formal Resolution Process* under this Policy.

D. Reporting to law enforcement

1. General information

Sexual violence (including *sexual assault* and *sexual exploitation*), *dating violence*, *domestic violence* and *stalking* are crimes prohibited under Minnesota's criminal laws. St. Olaf has an independent obligation to address reports of *Prohibited Conduct* regardless of whether such conduct is also reported to the police. Furthermore, legal guidelines preclude the College from reporting incidents of *Prohibited Conduct* to law enforcement without the authorization of the *Reporting Party* (unless such reporting is mandated under Minnesota's child or vulnerable adult abuse and neglect statutes).

2. College support for reporting to law enforcement

As indicated in Section IV.B.4., individuals who believe they have been subject to *sexual violence* (including *sexual assault* and *sexual exploitation*), *dating violence*, *domestic violence* and/or *stalking* are strongly encouraged to notify the Northfield Police Department. Meetings can normally be arranged on campus or at the Northfield Police Department depending upon the wishes of the *Reporting Party*. The *Title IX Coordinator* can help individuals better understand their options and assess whether to seek the filing of criminal charges, initiate a resolution process under St. Olaf's process under this Policy, or both. In most instances, reporting to the police does not require filing criminal charges, and the individual reporting to the police maintains control over whether and when criminal charges will be pursued. A *Reporting Party* may wish to bring a support person to any meetings with law enforcement, and the *Title IX Coordinator* can assist in facilitating such support if desired by the *Reporting Party*.

In instances where the police have been contacted about a matter involving reported *Prohibited Conduct*, the College will cooperate with the Northfield Police in obtaining, securing, and

maintaining evidence. The College and the Northfield Police Department are parties to a Memorandum of Understanding that addresses cooperation, communication and collaborative efforts between the College and the Northfield Police Department in our joint efforts to prevent and respond effectively to *sexual violence* (including *sexual assault* and *sexual exploitation*), *dating violence*, *domestic violence* and *stalking*.

Sexual misconduct may be reported to law enforcement by contacting the Northfield Police Department:

Emergency Number: 911

Non-Emergency Number: 507-645-4475

3. Rights of crime victims

Minnesota law provides individuals who report crimes to law enforcement with certain rights. These rights pertain to the process used by the police and prosecutors when a crime is reported. This is separate and apart from the process St. Olaf uses when such a report is made to the College. The following is a brief description of the rights guaranteed to individuals who report crimes to law enforcement:

a) Notification

By law, individuals who report crimes are entitled to notification of their rights including the following:

- the process for prosecuting crimes and the ability to participate in this process;
- the final results of a criminal report (including whether the accused will be charged with a crime and prosecuted, any plea agreement reached with the accused, the outcome of a criminal trial, whether the decision at trial is being appealed, and the results of any appeal);
- the details of any plea agreement that may have been reached with the accused;
- the schedule for trial and any appeal hearings;
- any changes sought to the sentence imposed against the offender and the right to provide input in these proceedings;
- information regarding the offender's release or escape from custody or transfer to a lower security facility;
- any petition by the offender for expungement of the offender's criminal records;
- the right of a victim of crime to request restitution and reparations; and
- information on the nearby crime victim assistance resources.

b) Protection

Individuals who report crimes are entitled to:

- a secure waiting area during any court proceedings;
- request that their identity and personal information (including home and employment address, telephone number, and birth date) not be disclosed publicly or in open court;
- protection against retaliation by their employer for taking reasonable time off to testify, assist with the prosecution, and to attend court proceedings; and
- protection from any harassment, intimidation or other tampering with a witness.

c) *Rights in Criminal Cases Involving Allegations of Domestic Violence, Sexual Assault, or Harassment*

Individuals who report crimes involving allegations of domestic violence, sexual assault or harassment are entitled to:

- be informed of the prosecutor’s decision to decline prosecution or dismiss the case along with information about seeking a harassment restraining order at no fee;
- protections against any retaliation from an employer in response to taking reasonable time off to attend a court proceeding relating to a request for an order for protection or harassment restraining order;
- terminate a lease without penalty;
- make a confidential request for HIV testing of a convicted offender in cases of sexual assault;
- a medical forensic examination at no cost; and
- to have an investigation and prosecution of a sexual assault case proceed without having to be subjected to a polygraph examination.

d) *Other rights*

Individuals who report crimes are also entitled to:

- request a speedy trial;
- provide input in plea agreements and to object to a plea agreement, orally or in writing, before the court;
- object orally or in writing to a proposed disposition or sentence;
- inform the court, either orally or in writing, of the impact of the crime at the sentencing hearing; and be present at the sentencing and plea presentation hearings; and
- be informed of any discharge or release of the offender from civil commitment and submit a statement regarding this decision.

For further information, consult the **Crime Victims Bill of Rights**, a publication of the Minnesota Department of Public Safety, or **Minnesota Statute 611A**.

V. ASSESSMENT AND ASSISTANCE IN RESPONSE TO REPORTS

A. Protocols for intake and evaluation of reports

1. Commitment to privacy

The College will respect and safeguard the privacy of individuals who report *Prohibited Conduct* and the privacy of all other individuals involved in the process. Consistent with the College’s need to carefully assess allegations of *Prohibited Conduct*, information will be shared with College officials who have a “need to know” in order to assist in the review of a report and the determination of appropriate responses. For matters that are reviewed under the *Formal Resolution Process*, information will also be shared as part of the investigation and adjudication process as is required by law and as is deemed necessary for conducting a fair, impartial and thorough investigation.

What is the difference between privacy and confidentiality?

As discussed above, some employees of the College are *Confidential Resources*. This means that they will not share information without permission from the *Reporting Party*. Conversations with

Confidential Resources are privileged and will not be disclosed unless permitted by the *Reporting Party* or unless otherwise required by law. Although there are only a few *Confidential Resources* on campus, all employees who receive information from a *Reporting Party*, a *Responding Party*, or others involved in the College's response to a report of *Prohibited Conduct* are expected to keep information **private**. This means that information should only be shared with other College employees who have a need to know the information (e.g., the *Title IX Coordinator*). This information is not shared with others in or outside of the College without the individual's express permission or unless otherwise legally authorized.

2. Waiver of charges for drug/alcohol violations

When a St. Olaf student, employee or guest reports *Prohibited Conduct*, the College's main priority is to protect the safety and well-being of the members of our community. In order to do so, we need individuals who report *Prohibited Conduct* and those who participate in investigations into such reports to be honest and candid about the circumstance surrounding the report. We do not want concerns about the College's alcohol and illicit drugs policy to cause individuals to either avoid reporting or to provide incomplete or inaccurate information during an investigation into such a report. Therefore, individuals who report *Prohibited Conduct* and individuals who participate as a party or witness in an investigation into allegations of *Prohibited Conduct* will not be disciplined by the College for any violation of its Policy on Alcohol and Illicit Drugs.

3. Evaluation of requests for confidentiality and/or non-action

Upon receiving a report of *Prohibited Conduct*, the College strives to take prompt and appropriate measures to eliminate misconduct, prevent its recurrence and remedy its effects. In so doing, the College strives to honor requests that the College keep the matter confidential and/or not pursue disciplinary action through a *Resolution Process*.

In the vast majority of cases the College will honor a *Reporting Party's* request to decide whether and when to initiate an investigation under the College's *Formal Resolution Process*. While St. Olaf strives to honor all such requests, in some cases the College may determine that overriding *risk factors* warrant proceeding with the *Formal Resolution Process*. This assessment will be performed by the *Title IX CORE Team* and the risk factors reviewed will include:

- Whether the accused individual has prior arrests, is the subject of prior reports and/or reports related to any form of *Prohibited Conduct*, or has any known history of violent behavior;
- Whether the accused individual has a history of failing to comply with any no-contact directive imposed by the College, and/or any judicial protective order/harassment restraining order;
- Whether the accused individual has threatened to commit violence or any form of *Prohibited Conduct*;
- Whether the *Prohibited Conduct* involved multiple accused individuals;
- Whether the *Prohibited Conduct* involved physical violence (e.g., hitting, punching, slapping, kicking, restraining, choking and brandishing or using any weapon);
- Whether the report reveals a pattern of *Prohibited Conduct* (e.g., by an individual or a particular group or organization, around a particular recurring event or activity, or at a particular location);
- Whether the *Prohibited Conduct* was facilitated through the use of "date-rape" or similar drugs or intoxicants;

- Whether the *Prohibited Conduct* occurred while the *Reporting Party* was unconscious, physically helpless or unaware that the *Prohibited Conduct* was occurring;
- Whether the *Reporting Party* is (or was at the time of the *Prohibited Conduct*) a minor (under 18); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

If a *Reporting Party* asks the College not to disclose the *Reporting Party*'s name or other identifiable information during an investigation, or the *Reporting Party* requests that no investigation be conducted at all, the College will evaluate the request in the context of its responsibility to provide a safe and nondiscriminatory environment for all community members. If the College decides that it has an obligation to initiate a *Formal Resolution Process* regarding the alleged policy violation, it will notify the *Reporting Party* before proceeding.

4. Response to anonymous reports

The college maintains an online anonymous reporting form (<http://wp.stolaf.edu/title-ix/report-sexual-violence/>) for any member of the St. Olaf community to anonymously report *Prohibited Conduct* that the reporter has either experienced or witnessed. The information provided is forwarded to the *Title IX Coordinator* and utilized for reporting purposes to state and federal authorities. The information is also used by the College to better understand the incidence of *sexual violence* in our community and to aid St. Olaf in its education, prevention, and response efforts. If a *Reporting Party* is identified in a third-party anonymous report, the *Title IX Coordinator* will reach out to the *Reporting Party* and offer to meet. The provision of an anonymous report is not used to initiate the *Formal Resolution Process* under this Policy.

5. Issuing crime alerts/timely warnings

To achieve a safe and secure campus environment, all members of the campus community are encouraged to promptly report any suspicious or criminal activity observed directly to Public Safety at 507-786-3666 and the Northfield Police Department. Employees (including student employees) designated as Campus Security Authorities as defined by the Crime Awareness and Campus Security Act (Clery Act) are required to report all known or suspected crimes to Public Safety for possible inclusion in the College's crime logs, campus notices, and annual campus security report pursuant to the Clery Act. These Campus Security Authorities include advisors to student organizations; athletic team coaches; members of the Public Safety Department; members of the Dean of Students Office; personnel working for Residence Life; and other community members who have significant responsibility for student and campus activities.

When serious crimes are reported to a Campus Security Authority or local law enforcement that occur on campus geography and are deemed by the College "to represent a serious or continuing threat to students and employees," Public Safety will issue a timely warning (Crime Alert) by email to the campus community. The timely warning will provide general information surrounding the incident and how incidents of a similar nature might be prevented in the future. Crime Alerts are issued to the community by Public Safety when the College receives a report of a serious crime occurring on our Clery Act geography that:

- Is reported to campus security authorities or local police agencies; and
- Is considered by the College to represent a serious or continuing threat to students and employees.

Serious crimes under the Clery Act include murder, sexual assault, robbery, burglary, and aggravated assault.

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 could identify individuals. All reports of any crimes, including sexual misconduct, are available in the College's daily crime log. Contact Public Safety (507-786-3666) to review the daily crime log.

B. Options for immediate assistance

1. Interim protective measures

At any time after a report of *Prohibited Conduct* has been received, the College will arrange for reasonable and appropriate interim protective measures aimed at protecting the well-being and safety of the parties or witnesses involved. Interim protective measures are temporary actions taken to facilitate equal access to educational services. They foster a more comfortable and safe educational and living environment throughout the process of reporting and, if applicable, investigation and adjudication of a report. Interim measures may be requested by a party or witness, or they may be initiated by the College. Interim protective measures are available regardless of whether a report proceeds to a *Resolution Process*.

Appropriate interim protective measures will vary depending upon the particular circumstances and based on a party's confidentiality preferences. The range of potential interim protective measures includes:

- Access to counseling or medical services and assistance in setting up initial appointments on and off campus.
- A College-imposed "no-contact directive" prohibiting contact between individuals.
- Assistance in petitioning a court for an *order for protection / harassment restraining order*.
- Prohibiting an individual from being on campus or at College events.
- Providing security escorts to assure safe movement between classes and activities.
- Rescheduling of exams or assignments.
- Providing alternative course completion options.
- Providing other academic support services, such as tutoring.
- Changing a student's class schedule.
- Changing an employee's work schedule or job assignment.
- Changing campus housing arrangements and assistance with housing relocation.
- Limiting access to certain College residence halls, facilities or activities pending resolution of the matter.
- Voluntary leave of absence.
- College-imposed leave, suspension or separation for individuals accused of committing *Prohibited Conduct* where there is a credible threat of serious disruption to the College's operations or a danger to the St. Olaf community.
- Making information available about and providing assistance with respect to orders for protection and *harassment restraining orders*, including enforcement of such orders.
- In cases where the individual is or becomes enrolled at a different educational institution either because of a transfer, on-going studies after graduation from St. Olaf, or temporary enrollment at a different institution, the College will provide information about resources available at the student's current institution.
- Any other measure deemed appropriate for fostering a more comfortable and safe educational and living environment.

Interim protective measures are initiated by the College based upon the information gathered during the report or made available to the College thereafter. They are not intended to be

punitive. Such measures will vary based on the particular facts and circumstances, including but not limited to the specific need expressed by the *Reporting Party*, the age of the student[s] involved, the severity or pervasiveness of the allegations, any continuing effects on the *Reporting Party*, whether the *Reporting Party* and the *Responding Party* share the same residence hall or job location, and whether other measures have been taken to protect the *Reporting Party* and *Responding Party*.

The *Title IX Coordinator* will maintain on-going contact with the parties involved in a report of *Prohibited Conduct*. The *Title IX Coordinator* retains the discretion to initiate and/or modify any interim protective measures based on all available information. A party may challenge interim protective measures, or failure to impose interim protective measures or take other actions, by contacting the *Title IX Coordinator* to address any concerns. The *Title IX CORE Team* will have ultimate responsibility over the determination of what measures will be put in place.

2. Measures for avoiding contact with other involved parties

a) *St. Olaf no-contact directive*

A no-contact directive is a College-issued order that prohibits one or both parties from communication or contact with another. To request a no-contact directive from the College, individuals should contact the *Title IX Coordinator*.

The *Title IX Coordinator* can provide Reporting Parties and Responding Parties information about available options for orders for protection, restraining orders, and no-contact directives.

b) *Law Enforcement Order for Protection/Harassment Restraining Order*

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 individual. A harassment restraining order is a civil 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 Rice County District Court. Paperwork to petition the court for an order for protection or harassment restraining order is available from the Public Safety Office or the Northfield Police Department. These forms may be submitted to the Court Administrator in the Rice County Courthouse, 218 3rd Street NW, Faribault, MN 55021 during business hours. Free assistance filling out these forms is available by contacting the HOPE Center at 507-332-0882, or at 800-607-2330 to get in touch with a legal advocate.

An order for protection and/or harassment restraining order can be enforced by contacting local law enforcement. St. Olaf is committed to ensuring that any such order issued by a court is fully upheld on the College's campus and at any St. Olaf-sponsored event.

3. Medical Forensic Examinations

For their health and safety, to preserve their options and for other reasons, victims of *sexual assault* are strongly encouraged to immediately obtain medical attention and a medical forensic examination. A medical forensic examination is an exam performed by a specially-trained forensic nurse, called a Sexual Assault Nurse Examiner (or "SANE"). SANEs are contracted to work with physicians in the Emergency Department at the Northfield Hospital. Medical forensic

examinations are available to anyone who is a victim of *sexual assault* regardless of gender or gender identity. Medical forensic examinations are conducted up to 168 hours (seven days) after the occurrence of a *sexual assault*; however, there may be circumstances that warrant an examination even after that period of time has expired.

The purpose of a medical forensic exam is to (1) assess the patient for injuries that need treatment, (2) provide medical care (including medications to prevent infections and pregnancy), and (3) document and collect evidence of sexual contact or physical trauma (including injuries on the body and genitals), trace evidence, and identifiable DNA of the perpetrator of a sexual assault. When there is suspicion or concern that a victim may have been incapacitated by drugs or alcohol during a sexual assault, the medical forensic exam may include the collection of urine and/or blood samples for toxicology testing.

Evidence and other documentation recovered from a medical forensic exam may be used to support a report under this Policy or a police report/criminal complaint; however, having a medical forensic exam performed does not mean that the *Reporting Party* must report the incident to either the St. Olaf *Title IX Coordinator* or other member of the *Title IX Team*, or to any law enforcement agency. That decision is entirely up to the *Reporting Party*. Even if the *Reporting Party* is not presently considering initiating an investigation with either the College or the police, obtaining an examination may ensure that important evidence is not lost and may therefore be useful in the future if the *Reporting Party* later decides to initiate a College investigation or file a police report. Evidence recovered from a medical forensic exam is not tested unless a *Reporting Party* reports to law enforcement.

Forensic evidence and other documentation collected at the Northfield Hospital may be released to the College or Northfield Police only with the *Reporting Party's* written consent or if an authorized third party provides consent on the *Reporting Party's* behalf. This forensic evidence may be used to support any subsequent criminal and/or College disciplinary action.

VI. INFORMAL AND FORMAL RESOLUTION PROCESSES

St. Olaf College is committed to providing a safe and non-discriminatory environment for all students, staff, faculty and other members of our campus community. The College provides both an informal and a formal resolution process. The *Informal Resolution Process* involves the voluntary crafting of an agreement between the *Reporting Party* and the *Responding Party*, which the College must also approve, designed to stop, remedy, and prevent *Prohibited Conduct*. The *Formal Resolution Process* involves the investigation and adjudication of a charge of *Prohibited Conduct*. Under the *Formal Resolution Process*, the burden of proof is on the College to conduct an adequate, complete, reliable and impartial investigation to determine whether it is more likely than not a *Responding Party* engaged in *Prohibited Conduct*. When such a determination is made, this process also includes the determination of *sanctions* to be imposed.

The *Title IX Coordinator* is available to explain the informal and formal resolution procedures. In addition, the *Title IX Coordinator* may directly refer a matter to other institutional disciplinary procedures when the type of behavior that is alleged to have occurred does not constitute *Prohibited Conduct* and the concerns raised by the report are better handled under another disciplinary procedure.

A. General provisions for all resolution processes

1. Commitment to fair treatment of all parties

The College seeks to ensure that all reporting parties and responding parties involved in a Resolution Process are treated with dignity and respect. The College strives to provide a process that is prompt, fair and impartial. Reporting Parties involved in this process should never be treated in a manner that suggests that they were at fault for, or that they should have done something differently to avoid, the reported *Prohibited Conduct*. If parties have any concerns about the manner in which they are being treated throughout a Resolution Process, they should immediately report such concerns to the *Title IX Coordinator*.

Reporting Parties and *Responding Parties* who participate in a Resolution Process can expect the following:

- Prompt and equitable resolution of allegations of *Prohibited Conduct*;
- Respect of their privacy in accordance with the Policy and any legal requirements;
- Freedom from *retaliation* for making a good faith report of *Prohibited Conduct* or for participating in a Resolution Process;
- The responsibility to refrain from *retaliation* directed against the other party or any other person for making a good faith report of *Prohibited Conduct*, for participating as a witness to a Resolution Process, or for participating in any proceeding under these Resolution Processes;
- The responsibility to provide truthful information in connection with the investigation and adjudication under the Formal Resolution Process;
- The opportunity to articulate concerns or issues about proceedings under these Resolution Processes with the *Title IX Coordinator*;
- Timely notice of any meeting or proceeding relating to the Formal Resolution Process at which the *Reporting Party* or *Responding Party* will be in attendance, including any meetings with the investigator, the adjudication panel or other College officials;
- The opportunity to select an advisor of choice, including the right to have that advisor attend any meeting or proceeding at which the party's presence is contemplated by these Resolution Processes;
- Written notice of the general nature of the alleged *Prohibited Conduct*;
- The opportunity to challenge the investigator or any member of the adjudication panel for bias or conflict of interest;
- The opportunity to offer information, present evidence, and identify witnesses during an investigation;
- The opportunity to be heard, orally and/or in writing, as to the determination of a violation of this Policy and the imposition of any sanction(s);
- Timely and equal access to any information that will be used during proceedings and related meetings;
- Reasonable time to prepare any response contemplated by these Resolution Processes;
- Written notice of any extension of timeframes for good cause; and
- Written notice of the determination of any proceedings, including the determination of whether Prohibited Conduct is believed to have occurred, and if so, the imposition of any sanction(s), and the rationale for each.

2. Process for avoiding conflicts of interests

If a *Reporting Party* or *Responding Party* has any concern that any individual acting for the College under these Resolution Processes has a conflict of interest, such concern should be reported to the *Title IX Coordinator* no later than two (2) business days after receiving the notice of the

identity of the individual(s) assigned to the matter. The *Title IX CORE Team* will review the concerns and take appropriate steps to ensure that no conflicts of interest exist on the part of anyone investigating or resolving a report under these Resolution Processes. If the *Title IX Coordinator* has a conflict of interest with respect to a resolution process, the College's President or the President's designee shall appoint an alternate person to oversee adherence to this Policy with respect to the specific report at issue. If the President is a party to the report or has a conflict of interest with respect to a report, the Chair of the Board of Regents for the College shall ensure that the College puts in place appropriate safeguards under the circumstances to ensure that the College promptly and equitably responds to the report, including, but not limited to, appointment of alternate individuals to oversee the Resolution Process.

3. Response to non-participation and silence

A party to a Resolution Process may at any time decline to provide information or otherwise participate in this Resolution Process. If a party decides not to participate in a Formal Resolution Process, the College will proceed with the process and make a determination based upon the information available. Silence in response to an allegation will not necessarily be viewed as an admission of the allegation, but may leave allegations unrefuted.

4. Reservation of flexibility

The procedures set forth in these *Resolution Processes* reflect the College's desire to respond to reports in good faith and in a manner that promotes fairness, impartiality and prompt resolution for all parties. The College recognizes that each case is unique and that circumstances may arise which require the College to reserve flexibility in responding to the particular circumstances. Where it is not possible or practical to follow the procedures provided in these *Resolution Processes*, or for some other reason the College deems it preferable to utilize a different process, the College reserves the right to modify the procedure or to take other administrative action as it deems appropriate under the circumstances. In addition, the College reserves the right to process reports of *sex discrimination* or *sexual harassment* according to the provisions of the *Formal Resolution Process* described in this Policy where the allegations, while not involving sexual misconduct, warrant such treatment under the circumstances.

5. Right to advisor of choice

Both the *Reporting Party* and the *Responding Party* have the right to be assisted by an advisor of their choice as long as the advisor is not a potential witness in the case, does not have some other conflict of interest, and observes the following protocols:

- a. The purpose of the advisor is to support a *Reporting Party* or *Responding Party* in the resolution process.
- b. Advisors may confer with their advisee, but they may not speak on behalf of their advisee or otherwise actively participate in the process.
- c. The advisor may accompany their advisee to all meetings relating to the Resolution Process, but may not appear in lieu of their advisee.
- d. While advisors may assist their advisee in drafting written communications to the College, they may not directly or indirectly communicate with the *Title IX Coordinator*, the investigator/adjudicator, witnesses (other than their own advisee), or the adjudication panel.
- e. Advisors may not interrupt or otherwise delay the Resolution Process. The College reserves the right to move forward with its process in order to ensure a prompt completion of the process. The College will strive to accommodate advisors' schedules; however, the process may need to move forward even if an advisor is unavailable.
- f. With the permission of their advisee, advisors will be provided access to the same investigation materials and evidence that is available to their advisee. This information

frequently includes student records and other confidential and highly sensitive information. Advisors' access to such information is conditioned upon their agreement to maintain the confidentiality of these records except when disclosure is legally authorized. Advisors may only discuss information disclosed through the investigation process with their advisee. For example, if a party's advisor is an attorney, the attorney may not share any information obtained during the investigation process with other attorneys or staff associated with the attorney.

- g. Violations of confidentiality or other forms of interference with the resolution procedure by the advisor may result in disqualification of an advisor.

The College reserves the right to disclose information about the identity of one party's advisor to the other party in a Resolution Process.

B. Provisions for Informal Resolution Process

A *Reporting Party* may seek to use an Informal Resolution process to develop a College-approved agreement between the *Reporting Party* and the *Responding Party* designed to stop, remedy, and prevent *Prohibited Conduct*. An Informal Resolution process is overseen by an individual appointed by the *Title IX Coordinator*, and normally is completed within thirty (30) calendar days of the initiation of the process. The *Title IX Coordinator* will maintain records for all Informal Resolution cases, including a copy of any College-approved agreements between the parties. The College maintains the discretion to determine whether the nature of the reported conduct is appropriate for Informal Resolution; to determine the type of Informal Resolution that may be appropriate in a specific case; and to refer a report for Formal Resolution at any time.

Participation in Informal Resolution is completely voluntary. The College will not require a *Reporting Party* or *Responding Party* to engage in Informal Resolution; will not compel the *Reporting Party* or the *Responding Party* to interact directly with each other in cases involving allegations of sexual assault; and will allow a *Reporting Party* or *Responding Party* to withdraw from Informal Resolution at any time. The College may decline a request for Informal Resolution in any particular case and may terminate an ongoing Informal Resolution process at any time. In addition, Informal Resolution may not be available where the CORE Team has determined that one or more of the *risk factors* listed in the Policy warrants use of the Formal Process. Informal Resolution that involves face-to-face meetings between the *Reporting Party* and the *Responding Party*, such as mediation, is not available in cases involving *sexual assault*. The agreement to participate in Informal Resolution and any resolution reached is subject to the agreement of the *Title IX Coordinator*, the *Reporting Party* and the *Responding Party*.

Each party has the right to choose and consult with an advisor during an Informal Resolution process. The advisor may be any person, including an attorney, who is not otherwise a party or witness to the reported incident. See Section VI.A.5. for additional information on the protocols to be observed by an advisor.

Pursuing Informal Resolution does not preclude later use of Formal Resolution if the Informal Resolution fails to achieve a resolution acceptable to the parties and the College. Where the *Reporting Party* or the *Responding Party* withdraws from Informal Resolution or Informal Resolution is otherwise terminated for any reason, any statements or disclosures made by the parties during the course of the Informal Resolution may be considered in a subsequent investigation and Formal Resolution.

C. Provisions for Formal Resolution Process

1. Circumstances prompting the initiation of a formal resolution process

The Formal Process is used when:

- A *Reporting Party* reports *Prohibited Conduct* and requests, at any time, that the College proceed with an investigation and adjudication under this Formal Process;
- Attempts to resolve a reported incident of *Prohibited Conduct* through the Informal Process are unsuccessful and the *Reporting Party* decides to initiate the Formal Resolution process; or
- In reviewing the nature of the report of *Prohibited Conduct*, the *Title IX CORE Team* determines, based upon a review of the totality of the circumstances and guided by a consideration of the *risk factors*, that investigation of the reported conduct is necessary to protect the health and safety of the *Reporting Party* and/or other members of the St. Olaf community.

2. Overview of investigation

During an investigation, the parties will have an equal opportunity to be heard, to submit information and corroborating evidence, to identify witnesses who may have relevant information, and to suggest questions that they believe should be directed by the investigator to the other party or to any witness. The investigator will seek to meet separately with the *Reporting Party*, the *Responding Party*, and third-party witnesses, and will gather other relevant and available evidence and information, including, without limitation, electronic or other records of communications between the parties or witnesses (via voice-mail, text message, email and social media sites), photographs (including those stored on computers and smartphones), and medical records (subject to the consent of the applicable party). Normally, interviews of the parties and witnesses will be audio recorded.

3. Timelines

In most instances, the College will complete the Formal Resolution Process outlined below (investigation, finding, and if applicable, sanction) within sixty (60) calendar days. This timeframe may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for College breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. In cases where extensions may be necessary, the *Title IX Coordinator* will notify the parties. Extensions will be no longer than necessary. The *Reporting Party* and *Responding Party* will receive written notice of any extensions that will include the reasons for the delay and the anticipated length of the delay.

4. Investigators

Whenever the Formal Process is commenced, an investigator is assigned to conduct a prompt, thorough, fair, and impartial investigation. In most instances the College will retain an external investigator to conduct the investigation. All investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an investigation that is fair and impartial, provides parties

with notice and a meaningful opportunity to be heard, and protects the safety of reporting parties and the College community while promoting accountability.

5. Notice of Investigation

The *Title IX Coordinator* will notify the *Reporting Party* and the *Responding Party*, in writing, of the commencement of an investigation. Such notice will include at least the following:

- The identity of the *Reporting Party* and the *Responding Party*;
- The date, time (if known), location, and nature of the alleged *Prohibited Conduct*;
- The type(s) of *Prohibited Conduct* alleged to have occurred;
- The identity of the investigator and Adjudication Panel members;
- An explanation of the prohibition against *retaliation*;
- Instructions to the parties to preserve any potentially relevant evidence in any format;
- Information on how the parties may challenge participation by the investigator or the adjudication panel on the basis of bias or a conflict of interest; and
- A link to a copy of the Policy and this Resolution Process.

6. Investigation of other Code of Conduct violations

If a report of *Prohibited Conduct* also implicates other allegations of violations of the College's Code of Conduct, the *Title IX CORE Team* will evaluate the allegations to determine whether the investigation of the Prohibited Conduct and the other alleged misconduct may be appropriately investigated together without unduly delaying the resolution of the report of *Prohibited Conduct*. Where the *Title IX Coordinator* determines that a single investigation is appropriate, the determination of responsibility for the violation other Code of Conduct policies will be evaluated under the applicable policy, but the investigation and resolution will be conducted in accordance with these Procedures.

7. Presumption of non-responsibility and impact of non-participation

An investigation is a neutral fact-gathering process. The *Responding Party* will be deemed responsible only where the investigator and/or Adjudication Panel conclude that there is sufficient evidence, by a preponderance of the evidence, to support a finding that the *Responding Party* engaged in *Prohibited Conduct*. Neither party is required to participate in the investigation or any form of resolution under this Formal Resolution Process, and the investigator will not draw any adverse inference from a decision by either of the parties not to participate.

8. Factors in analysis of evidence

a. *Prior or subsequent conduct*

Prior or subsequent conduct of the *Responding Party* may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of *Prohibited Conduct* by the *Responding Party*, either before or after the incident in question, regardless of whether there has been a prior finding of *Prohibited Conduct*, may be deemed relevant to the determination of responsibility for the *Prohibited Conduct* under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar *Prohibited Conduct*. Such prior or subsequent conduct may subject the *Responding Party* to additional sanctions. The

investigator will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

b. Prior sexual history

The sexual history of a *Reporting Party* or *Responding Party* will never be used to prove character or reputation. Moreover, evidence related to the prior sexual history of either of the parties is generally not relevant to the determination of whether *Prohibited Conduct* occurred and will be considered only in limited circumstances. For example, if the existence of *consent* is at issue, the sexual history between the parties may be relevant in understanding context and the manner and nature of communications between the parties, which could be relevant in determining whether *consent* was sought and given during the incident in question. However, even in the context of a prior sexual relationship, *consent* to one sexual act on one occasion does not constitute consent to another sexual act on a different occasion. The investigator will determine the relevance of evidence of prior sexual history.

c. Relevance of evidence

The investigator has the discretion to determine the relevance of any proffered evidence and to include or exclude certain types of evidence. Evidence that is determined to have been offered for an improper purpose, such as to embarrass or harass another party or witness, will not be considered by the investigator and could be grounds for an independent complaint of *retaliation*.

d. Expert opinions

When expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation, the investigator may consult medical, forensic, technological or other experts. Information and opinions from experts may be sought by the investigator or proffered by one of the parties. When expert opinion information is reviewed by the investigator the parties will be apprised of the information and provided an opportunity to submit additional expert information.

9. Close of evidence notice

The College will strive to complete the investigation phase of the Formal Process within seventeen (17) business days. Prior to the Investigator drafting an Investigation Report, the *Title IX Coordinator* will inform the parties of the pending close of the investigation phase so that the parties will have an opportunity to submit any additional evidence and/or suggest additional witnesses to be interviewed. The opportunity to submit further evidence will close on the date identified by the investigator, and the parties will not be permitted to introduce additional evidence after that date absent extraordinary circumstances.

10. Investigation Report

At the conclusion of the investigation, the investigator will prepare an Investigation Report summarizing the information gathered and outlining the contested and uncontested information. The Investigation Report will not include any findings. The *Reporting Party* and the *Responding Party* will have an opportunity to review the Investigation Report; meet with the investigator; and submit to the investigator any written request for corrections to errors of fact. If the parties believe that there is a deficiency with the investigation (e.g., the investigator failed to interview a key witness or neglected to mention important evidence in the Investigation Report), the parties

may request the investigator to conduct further investigation. The investigator will determine whether further investigation is warranted. The investigator will designate a reasonable time for the review and response by the parties, not to exceed five (5) business days.

11. Investigator's Decision Letter

Unless the investigator identifies a deficiency with the investigation that requires further investigative steps by the investigator, the investigator will proceed with completing an Investigator's Decision Letter. The Investigator's Decision Letter will be completed within five (5) business days after receipt and consideration of any additional comments, questions and/or information submitted by the parties during the designated review and response to the Investigation Report. The Investigator's Decision Letter will include a determination as to whether there is sufficient evidence, by a preponderance of the evidence, to support a finding that the *Responding Party* engaged in *Prohibited Conduct*. In reaching this finding, the investigator may consult with St. Olaf's General Counsel. The investigator will deliver the Investigator's Decision Letter to the *Title IX Coordinator*. The *Title IX Coordinator* will send both parties, simultaneously, an electronic copy of the Investigator's Decision Letter.

12. Adjudication Panel review

The Adjudication Panel is comprised of two employees of the College. Typically, the College's Vice President for Student Life and the Dean of Students are the two Adjudication Panel members. In instances where either or both officials are unavailable, or there is a substantiated concern raised about potential bias or conflict of interest, the *Title IX Coordinator* will appoint substitution Adjudication Panel members. Adjudication Panel members will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct a fair and impartial adjudication.

13. Appeal of investigator's decision

Either or both parties may contest the investigator's decision in the Investigator's Decision Letter and appeal it before the Adjudication Panel. If the investigator determines that there is insufficient evidence, by a preponderance of the evidence, to support a finding of responsibility on one or more of the allegations, and this determination is not appealed, the matter will be closed. If the investigator determines that there is sufficient evidence, by a preponderance of the evidence, to support a finding of responsibility on one or more of the allegations, and neither party appeals this determination, the matter will be referred to the Adjudication Panel solely to determine the issue of *sanctions*.

If either or both parties choose to appeal the decision of the investigator before the Adjudication Panel, the appealing party must submit a letter of appeal to the *Title IX Coordinator* within three (3) business days of when the *Title IX Coordinator* sent the Investigator's Decision Letter to the parties. The letter of appeal should state the grounds for appeal. The non-appealing party will have an opportunity to review and respond to the letter of appeal. A non-appealing party's response to an appeal must be received within three (3) business days of notice of the appeal letter. The *Title IX Coordinator* will provide the Investigation Report, the Investigator's Decision Letter, and any statements submitted by the parties to the Adjudication Panel for review of the appeal.

If either of the parties appeals the investigator's determination in the Investigator's Decision Letter, the Adjudication Panel will review the appeal to determine whether the decision was clearly erroneous. Appealing the determination to the Adjudication Panel is not an opportunity to start over with a new investigation. The investigator's decision will not be changed unless there is evidence that the investigator committed a clear error of judgment in reviewing the facts and reaching a conclusion, such that no reasonable investigator reviewing the evidence made available during the investigation could have made the same conclusion the investigator reached.

In reviewing any appeal, the Adjudication Panel has the ability to affirm the investigator's decision, overturn the investigator's decision, or remand the matter for further investigation and adjudication.

14. Process for determining sanctions

Where there is a finding of responsibility on one or more of the allegations, both parties may submit a statement to the *Title IX Coordinator* for consideration by the Adjudication Panel in determining an appropriate sanction. The *Reporting Party* may submit a written statement describing the impact of the *Prohibited Conduct* on the *Reporting Party* and expressing a preference about the *sanctions* to be imposed. The *Responding Party* may submit a written statement explaining any factors that the *Responding Party* believes should mitigate or otherwise be considered in determining the sanctions(s) imposed. If either or both of the parties decides to submit a statement, it must be received by the *Title IX Coordinator* no later than five (5) business days from when the *Title IX Coordinator* sent the Investigator's Decision Letter to the parties. The *Title IX Coordinator* will ensure that each of the parties has an opportunity to review any statement submitted by the other party after the sanctions response deadline has passed. The *Title IX Coordinator* will provide any statement(s) to the Adjudication Panel.

Either or both parties may also request the opportunity to meet with the Adjudication Panel to discuss how the Adjudication Panel should address the issue of *sanctions*. Requests to meet with the Adjudication Panel should be sent to the *Title IX Coordinator*. Parties have five (5) business days from when the *Title IX Coordinator* sent the Investigator's Decision Letter to the parties to meet with the Adjudication Panel. Meetings with the Adjudication Panel will be recorded, and each party will have the option to listen to the recording from the other party's meeting after the sanctions response deadline has passed.

When the Adjudication Panel meets to discuss the matter, they will first determine a response to any appeals (if applicable). They will then deliberate about sanctions (if applicable). The final Notice will include determinations about any appeals *and* sanctions. The Adjudication Panel's review of any appeal and any determination on sanctions will normally be completed within ten (10) business days after receipt of the Investigator's Decision Letter.

15. Sanctioning options

Where there is a finding of responsibility, the Adjudication Panel is responsible for determining appropriate sanctions. Sanctions imposed upon student responding parties may include a variety of institutional responses or requirements, including, but not limited to, the following: expulsion; suspension (usually, at a minimum, the greater of either 1 year or the remaining amount of time the *Reporting Party* will remain a student at the College); probation; restriction of privileges; required assessment or counseling; required attendance at educational programs; restitution; not being allowed to represent the College in leadership, volunteer, or paid positions; removal from campus housing; and any other sanctions listed in the Code of Student Conduct or deemed appropriate under the circumstances.

Appropriate sanctions for staff or faculty members deemed to have violated the Policy include, but are not limited to a disciplinary warning, unpaid suspensions, suspension of promotion and salary increments, loss of prospective benefits, major fines, reduction in salary, suspension from service, suspension or withdrawal of privileges, demotion, termination of employment, and any other available sanctions as specified by the St. Olaf Faculty Manual, Faculty Handbook, or Staff Handbook as applicable. If the Adjudication Panel determines that it is more likely than not that a faculty member has violated this Policy and that dismissal may be an appropriate sanction, the matter will be referred to the President, or the President's designee, for appropriate process and decision, which shall be determined and administered in a manner consistent with the Faculty Manual. In such cases, dismissal for cause may only be effectuated in accordance with Faculty Manual Section XIX Dismissal Procedures, including use of the clear and convincing evidence standard. The adjudicator(s) or the adjudicator's designee may impose appropriate sanctions short of dismissal, in a manner consistent with the Faculty Manual and Faculty Handbook.

The propriety of any particular sanction is reviewed on an individual basis based on the unique facts and circumstances as found by the Adjudication Panel. In keeping with the College's commitment to foster an environment that is safe, inclusive, and free of *Prohibited Conduct*, the Formal Resolution Process provides the Adjudication Panel with wide latitude in the imposition of sanctions tailored to circumstances of each unique matter.

The imposition of sanctions is designed to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting the College's educational mission and legal obligations. In determining the appropriate sanctions, the Adjudication Panel will be guided by a number of considerations, including:

- The severity, persistence or pervasiveness of the *Prohibited Conduct*;
- Whether the *Prohibited Conduct* included violence;
- The impact of the *Prohibited Conduct* on the *Reporting Party*;
- The impact or implications of the *Prohibited Conduct* within the St. Olaf community;
- Prior misconduct by the *Responding Party*, including the *Responding Party's* relevant prior disciplinary history, at St. Olaf or elsewhere, and any criminal convictions;
- Whether the *Responding Party* has accepted responsibility for the *Prohibited Conduct*;
- The *Reporting Party's* stated preferences;
- The maintenance of a safe, nondiscriminatory and respectful environment conducive to learning; and
- Any other mitigating, aggravating, or compelling factors.

Sanctions are effective immediately, unless otherwise specified by the Adjudication Panel.

16. Notice of Sanction

The Adjudication Panel will issue a written Notice of Sanction to the *Title IX Coordinator*, who will then send (electronically) the Notice simultaneously to the *Reporting Party* and the *Responding Party*. The Notice of Sanction will set forth the violation(s) of the Policy for which the *Responding Party* was found responsible or not responsible, as supported by the rationale set forth in the Investigator's Decision Letter and/or as modified by any appeal determination by the Adjudication Panel; the sanctions (if applicable) imposed against the *Responding Party*; and the rationale for any sanctions imposed. The Notice of Sanction may also identify protective measures implemented with respect to the *Responding Party* or the broader College community. The Notice of Sanction sent to the *Responding Party* will not disclose any remedial measures

offered to the *Reporting Party*. The decision of the Adjudication Panel is final, without further recourse or appeal by either party.

D. Resolution process for reports involving parties who are not St. Olaf students or employees

When the College receives a report involving allegations of *Prohibited Conduct* by a third party (an individual who is not a student, faculty, or staff member), the *Title IX CORE Team* may exercise discretion to determine an alternative investigative and adjudication process that is deemed more appropriate based on the facts and circumstances of the matter. The *Title IX Coordinator* will document any report received, the process used, and the outcome. If it is determined that it is more likely than not that a third party violated this Policy, appropriate sanction(s) may include but are not limited to: conditions upon presence on campus or at College events, no-trespass and no-contact directives, or other steps deemed necessary to protect the *Reporting Party* and the campus community. The College will notify the parties of the outcome of the process. Any party with concerns about the process or outcome should consult with the *Title IX Coordinator*.

VII. POLICY REVIEW

A. Ongoing internal policy review

This policy is maintained by the Title IX Team and subject to ongoing review and improvement. The Title IX Team will review this Policy on at least an annual basis. To assist the Title IX Team in its review of its policies and practices, St. Olaf College has established a Title IX Advisory Group that is tasked with gathering information from the St. Olaf community and providing recommendations on policy revisions and enhancements. The Title IX Advisory Group is appointed by St. Olaf's President and is comprised of student, faculty and staff members.

The Title IX Advisory Group will also provide feedback on the College's education, awareness and prevention initiatives, and on the resources and support available to individuals involved in the College's process. The Title IX Advisory Group will provide opportunities for students, staff, faculty and other members of the St. Olaf community, especially individuals affected by this Policy and the Resolution Processes, to provide feedback on their experience, especially with regard to support services and the Resolution Processes. The Title IX Advisory Group will submit its reports to the Title IX Team and to the President.

B. External recourse

Nothing in this Policy or *Resolution Processes* is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but are not limited to, filing a complaint with the United States Department of Education, Office for Civil Rights (OCR). Any individual who has made a report of *Prohibited Conduct* and initiated a *Resolution Process*, and who believes the College's response was inadequate, or who otherwise believes they have been discriminated against, may file a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education. The OCR office that oversees institutions in Minnesota, including St. Olaf, 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](tel:312.730.1560)
TDD: [877.521.2172](tel:877.521.2172)
Email: OCR.Chicago@ed.gov