

# 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 harassment, based upon any of these legally-protected characteristics. These behaviors not only harm individuals, they also damage the St. Olaf community as a whole. 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. Why are there two policies?

Under Title IX and the Violence Against Women Act there are unique obligations that the College must follow when responding to reports of sexual assault, sexual violence, sexual exploitation, dating violence, domestic violence and stalking. Because the College's obligations are different with respect to these forms of sexual harassment the College has a separate Policy Prohibiting Sexual Harassment. Questions relating to the College's response to *sexual and interpersonal violence* are addressed in that policy. All other forms of discrimination and harassment (i.e., *prohibited conduct*) are addressed below.

### C. On-Campus Resources

#### 1. *Prohibited Conduct* Resources

##### a) *Vice President for Equity and Inclusion*

The *Vice President for Equity and Inclusion* is responsible for coordinating the College's efforts for diversity and inclusion. The *Vice President for Equity and Inclusion* is also in charge of all intakes for reports of *Prohibited Conduct* as well as general oversight of the *Bias Response Team*.

##### b) *Bias Response Core Team*

The *Bias Response Team* is responsible for the initial evaluation of all reports of *Prohibited Conduct* the College receives. During this initial evaluation the *Bias Response Team* will determine if the College should proceed with disciplinary procedures or, in a case where there is no policy violation, discuss other relevant procedures.

Students looking to report an instance of *Prohibited Conduct* can contact anyone on the *Bias Response Team*.

The members of the *Bias Response Team* include:

<b>St. Olaf College <i>Bias Response Team</i></b>			
Director of Title IX and Equal Opportunity	<a href="#">Kari Hohn</a>	Tomson Hall 144	507-786-3465
Dean of Students	<a href="#">Rosalyn Eaton</a>	Tomson Hall 165	507-786-3615
Interim Vice President for Equity and Inclusion and Director of the Taylor Center for Equity and Inclusion	<a href="#">María Pabón Gautier</a>	Buntrock Commons 111B	507-786-3727
Director of Public Safety	<a href="#">Fred Behr</a>	Tomson Hall 10D	507-786-3636
Associate Dean for Residence Life	<a href="#">Pamela McDowell</a>	Tomson Hall 148	507-786-3011
Faculty Representative	<a href="#">Corliss Swain</a>	Holland Hall 415	507-786-3277
Director of Communication	<a href="#">Kari VanDerVeen</a>	Tomson Hall 021 CUB 7	507-786-3970

c) *Sexual Harassment that does not rise to the level of Sexual or Interpersonal Violence*

While individuals are welcome to report incidents of *sexual harassment* to the *Bias Response Team*, all reports of sexual harassment, regardless of whether they include allegations of *sexual or interpersonal violence*, will be addressed by the Title IX Coordinator. Individuals are free to report directly to the Title IX Coordinator or Title IX Team, or they may report to the *Bias Response Team* which will refer the matter to the Title IX Coordinator.

2. *Sexual and Interpersonal Violence Resources*

a) *Title IX Coordinator*

The Title IX Coordinator is responsible for coordinating all aspects of the College's gender equity compliance efforts, including the College's efforts to prevent gender-based *sexual and interpersonal violence*. 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 *Sexual and Interpersonal Violence* 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 supportive 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.

*b) Title IX CORE Team*

The Title IX COordinated REsponse (CORE) Team is responsible for collectively assessing reports of *Sexual and Interpersonal Violence* 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			
Director of Title IX and Equal Opportunity	<a href="#">Kari Hohn</a>	Tomson Hall 148	507-786-3465
Associate Dean of Students for Residence Life	<a href="#">Pamela McDowell</a>	Tomson Hall 148	507-786-3011
Director of Public Safety	<a href="#">Fred Behr</a>	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 *Sexual and Interpersonal Violence* 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 *Sexual and Interpersonal Violence*
- 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 *Sexual and Interpersonal Violence*;
- 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 *Sexual and Interpersonal Violence*.

*c) Full Title IX Team*

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

<b>St. Olaf College Title IX Team</b>			
Director of Title IX and Equal Opportunity	<a href="#"><u>Kari Hohn</u></a>	Tomson Hall 148	507-786-3465
VP for Student Life	<a href="#"><u>Hassel Morrison</u></a>	Tomson Hall 148	507-786-3503
Director of Public Safety	<a href="#"><u>Fred Behr</u></a>	Tomson Hall 10D	507-786-3666
Vice President for Mission	<a href="#"><u>Jo Beld</u></a>	Tomson Hall 259	507-786-3632
Athletic Director	<a href="#"><u>Ryan Bowles</u></a>	Skoglund Athletic Center 1114	507-786-3965
Dean of Students	<a href="#"><u>Rosalyn Eaton</u></a>	Tomson Hall 148	507-786-3615
Associate Dean of Students	<a href="#"><u>Justin Fleming</u></a>	Tomson Hall 148	507-786-3615
VP for Human Resources	<a href="#"><u>Michael Goodson</u></a>	Tomson Hall 180	507-768-3068

Assistant Dean for Programming and Assessment	<a href="#">Joshua Lee</a>	Tomson Hall 148	507-786-3011
Director of International and Off-Campus Studies	<a href="#">Jodi Malmgren</a>	Tomson Hall 380	507-786-3375
Associate Dean of Students for Residence Life	<a href="#">Pamela McDowell</a>	Tomson Hall 148	507-786-3011
Assistant Director, Gender and Sexuality	<a href="#">TBD</a>	Buntrock Commons 111C	507-786-3487
Associate Dean of Students	<a href="#">Tim Schroer</a>	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 *Sexual and Interpersonal Violence*;
- Receiving reports of *Sexual and Interpersonal Violence*, 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.

#### D. 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](mailto: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](mailto:Info.MDHR@state.mn.us)

## II. GENERAL POLICY GUIDELINES

### 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. Scope of Policy

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

- When it occurs on campus or on other property owned by St. Olaf College;
- When it is committed in connection with any College program or activity, whether on or off campus, including affiliated domestic and international off-campus programs;
- When it occurs in connection with any other academic, educational, co-curricular, athletic, residential and other College program or activity;
- When it occurs on-line or through 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 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 *Sexual and Interpersonal Violence*, and the College strongly encourages any individual who knows of or has been subject to *Prohibited Conduct* and *Sexual and Interpersonal Violence* 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 the *Prohibited Conduct* and *Sexual and Interpersonal Violence* that falls within the scope of this policy.

### C. 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 the sex 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. POLICY STATEMENTS AND DEFINITIONS

#### A. Policy Statement on *Prohibited Conduct*

This Policy on Discrimination, Harassment and Related Misconduct prohibits all forms of unlawful discrimination and harassment based upon a person’s legally protected status. It also prohibits *retaliation* against any person who reports *prohibited conduct* or who participates in an investigation into a report of *prohibited conduct*. While *sexual and interpersonal violence* is also prohibited, it is addressed separately in the Sexual and Interpersonal Violence Policy because of the unique legal obligations that the College must follow for these types of reports.

**For ease of reference throughout this Policy all forms of *discrimination*, *harassment* and *retaliation* (other than sexual and interpersonal violence) are collectively referred to as “*Prohibited Conduct*.”**

Questions or concerns regarding *Prohibited Conduct* may be directed to the St. Olaf College *Vice President for Equity and Inclusion* or any member of the *Bias Response Team*.

#### B. *Prohibited Conduct* Definitions

##### 1. 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*.

##### 2. 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.

### 3. 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.

4. Hate Crime

A hate crime is defined as any criminal offense committed against a person, group, or that person/group’s property that is motivated by the person’s/group’s legally protected status.



Source: U.S. Department of Justice

## 5. Retaliation

St. Olaf College strictly prohibits retaliation against individuals who report *Prohibited Conduct* or against individuals who assist in an investigation 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 report of *Prohibited Conduct* or participation in an investigation of reported *Prohibited Conduct*.

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.

## B. Policy statement on *Sexual and Interpersonal Violence*

In conformity with the College's General Policy on Prohibited Discrimination and Harassment, the College expressly prohibits all forms of *sexual assault*, *sexual violence* and *sexual exploitation*. The College also prohibits all forms of *dating violence*, *domestic violence*, and *stalking*. Retaliation against a person who in good faith reports suspected *Sexual and Interpersonal Violence* or against an individual who assists in an investigation into a report of *Sexual and Interpersonal Violence* is also strictly prohibited and investigated under the *Prohibited Conduct* Policy.

**For ease of reference throughout this Policy *sexual assault*, *sexual violence*, *sexual exploitation*, *dating violence*, *domestic violence* and *stalking* are collectively referred to as "*Sexual and Interpersonal Violence*."**

Questions or concerns regarding *Sexual and Interpersonal Violence* may be directed to the St. Olaf College *Title IX Coordinator* or any member of the College's *Title IX Team*.

### 1. *Sexual and Interpersonal Violence* Definitions

#### a) *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*).

#### b) *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*).

#### c) *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.

#### d) *Dating violence*

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship 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.

#### e) *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.

#### *f) 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.”

#### *g) 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.

#### *h) 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.

#### *i) 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*.

#### *j) 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 *Sexual and Interpersonal Violence*. 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 *Prohibited Conduct*

Faculty, staff and students are encouraged to report any known incidents of *Prohibited Conduct*. While community members are encouraged to report incidents to the College so that issues can be addressed promptly, appropriately and consistently, the College does not require reporting except with regard to incidents of *sexual or interpersonal violence*. With regard to *sexual or interpersonal violence*, all faculty and staff employees, as well as student employees in the course of performing their job responsibilities, are expected to promptly report all known or suspected incidents of *sexual or interpersonal violence* to the Title IX Coordinator or a member of the Title IX Team. This expectation does not apply to employees and students serving in the role of 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 *Bias Response Core Team*. At St. Olaf, these designated *confidential resources* include the following:

**Counseling Center**

Boe House, 1308 St. Olaf Ave.

[counselingcenterboehouse@stolaf.edu](mailto:counselingcenterboehouse@stolaf.edu)

507-786-3062

**College Pastors**

Boe Memorial Chapel, Lower Level

[marohl@stolaf.edu](mailto:marohl@stolaf.edu), [fick@stolaf.edu](mailto:fick@stolaf.edu), or [ministry@stolaf.edu](mailto:ministry@stolaf.edu)

507-786-3092

## 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. 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.

### 2. Meeting with the *Vice President for Equity and Inclusion* to obtain information and assistance

St. Olaf recognizes that deciding whether to speak with the *Vice President for Equity and Inclusion* 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 *Vice President for Equity and Inclusion*, 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 *supportive measures* the College can take to sustain the *Reporting Party's* educational and co-curricular experience. Reporting to the *Vice President for Equity and Inclusion* 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 *Vice President for Equity and Inclusion* so that they can better understand and readily access the support services and other options available to them under this Policy. Reporting to the *Vice President for Equity and Inclusion* 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 *Investigation Process*. Support resources and *supportive measures* are available regardless of the course of action chosen.

### 3. Reporting to the College to initiate a Restorative Justice or Investigation Process

A *Resolution Process* may commence after an individual identifies another individual who has engaged in *Prohibited Conduct*. In the case of *Restorative Justice*, it may also proceed whenever an incident has occurred and regardless of whether an alleged perpetrator of in *Prohibited Conduct* has been identified. A *Reporting Party* may initiate a *Resolution Process* by speaking with the *Vice President for Equity and Inclusion*.

#### 4. Reporting to law enforcement

Individuals who believe they have been subject to *Prohibited Conduct* that is also a crime, such as theft, assault or damage to property are strongly encouraged to notify the Northfield Police Department. If the *Reporting Party* wishes it, a member of the *Bias Response Core 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.

Contacting the Northfield Police Department:

Emergency Number: 911

Non-Emergency Number: 507-645-4475

#### 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 [online reporting form](#), which is automatically delivered to the *Vice President for Equity and Inclusion*, or by directly contacting the *Vice President for Equity and Inclusion* or another member of the *Bias Response 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 *Vice President for Equity and Inclusion*.

##### 1. Reporting to the Vice President for Equity and Inclusion

The *Vice President for Equity and Inclusion* provides information and assistance to parties involved in reports of *Prohibited Conduct* under this policy. *Reporting Parties* may wish to report directly to the *Vice President for Equity and Inclusion* to have immediate access to assistance and information.

Following receipt of a report, The *Vice President for Equity and Inclusion* 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* 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 *Restorative Justice* (when available) or to initiate an investigation under the *Investigation Process*, seek to obtain the *Reporting Party*'s consent to initiate the *Investigation Process*, and discuss with the *Reporting Party* any concerns or barriers to participating in a *Resolution Process*;

- If applicable, inform the *Reporting Party* of the right to seek medical treatment and explain the importance of obtaining and preserving forensic and other evidence;
- If the incident involves criminal conduct, inform the *Reporting Party* of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order;
- Explain the College's prohibition against *retaliation* and that the College will take prompt action in response to any act of *retaliation*.

## 2. Reporting to another member of the *Bias Response Team*

Individuals may choose any member of the *Bias Response Team* (see Section I.B.1.B) as the most appropriate person to receive their report. Individuals who report to a member of the *Bias Response Team* may wish to limit the conversation to the member of the team, or they may wish to have their concerns addressed by the entire *Bias Response Team*. Members of the *Bias Response Team* will always strive to honor an individual's decision as to whether to escalate a concern to other St. Olaf authorities and/or law enforcement. In some situations, such as when there is an ongoing threat to the safety of members of the community, the member of the *Bias Response Team* may need to report the situation to others. In such circumstances, the *Bias Response Team* member will apprise the individual of this decision and work with the individual to address concerns like confidentiality and anonymity.

## 3. 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).

## 4. Reporting anonymously

The College maintains an online reporting form ([https://cm.maxient.com/reportingform.php?StOlafCollege&layout\\_id=2](https://cm.maxient.com/reportingform.php?StOlafCollege&layout_id=2)) 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 *Bias Response Team*. If a *Reporting Party* is identified in an anonymous report, the *Vice President for Equity and Inclusion* or a member of the *Bias Response Team* will contact the *Reporting Party* to offer information and other services.

## D. Reporting to law enforcement

### 1. General information

Some *Prohibited Conduct* may rise to the level of a crime. In order to protect members of the community, St. Olaf reserves the right to report crimes reported to the College.

### 2. College support for reporting to law enforcement

Individuals who believe they have witnessed or been a victim of a crime 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 *Vice President for Equity and Inclusion* or a member of the *Bias Response Team* 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. A *Reporting Party* may wish to bring a support person to any meetings with law enforcement.

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.

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 *Investigation Process*, information will also be shared as part of the *Investigation Process* 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 *Vice President for Equity and Inclusion*). 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. 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*. Therefore, in cases where the identities of witnesses are not integral to the investigation or are deemed to be unnecessary to reveal, the College will respect the confidentiality of the witness if desired.

## 3. Response to anonymous reports

The college maintains an online anonymous reporting form ([https://cm.maxient.com/reportingform.php?StOlafCollege&layout\\_id=2](https://cm.maxient.com/reportingform.php?StOlafCollege&layout_id=2)) 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 members of the *Bias Response Team* and utilized by the College to better understand the incidence of 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, a member of the *Bias Response Team* will reach out to the *Reporting Party* and offer to meet.

## 4. 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. Supportive measures

At any time after a report of *Prohibited Conduct* has been received, the College will arrange for reasonable and appropriate supportive measures aimed at protecting the well-being and safety of the parties or witnesses involved. Supportive measures are 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 of a report. Supportive measures may be requested by a party or witness, or they may be initiated by the College. Supportive measures are available regardless of whether a report proceeds to a *Resolution Process*.

Appropriate supportive measures will vary depending upon the particular circumstances and based on a party's confidentiality preferences. The range of potential supportive 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 a *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.

Supportive 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*.

A party may challenge supportive measures, or failure to impose supportive measures or take other actions, by contacting the *Vice President for Equity and Inclusion* or a member of the *Bias Response Team* to address any concerns. The *Bias Response 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 *Vice President for Equity and Inclusion*.

The *Vice President for Equity and Inclusion* can provide *Reporting Parties* and *Responding Parties* information about available options for restraining orders and no-contact directives.

### b) *Law Enforcement Harassment Restraining Order*

Harassment restraining orders 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. The College does not issue harassment restraining orders, but one can be obtained through making an application to the Rice County District Court. Paperwork to petition the court for a 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 3<sup>rd</sup> 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.

A 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.

## VI. RESTORITIVE JUSTICE AND INVESTIGATION 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. In response to reports of *Prohibited Conduct*, the College offers the opportunity to participate in *Restorative Justice* or an *Investigation Process*. The *Restorative Justice* process involves meeting with members of the St. Olaf community to discuss the

impact of an incident and, when appropriate, to voluntarily craft an agreement between the parties involved in the matter, which the College must also approve, designed to stop, remedy, and prevent future *Prohibited Conduct*. The *Investigation Process* involves an investigation into allegations of *Prohibited Conduct*. Under the *Investigation Process*, the College will conduct an 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 *Vice President for Equity and Inclusion* is available to explain the *Restorative Justice* and *Investigation Process* procedures. In addition, the *Vice President for Equity and Inclusion* 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. When the alleged *Prohibited Conduct* involves sexual harassment, the matter may be referred to the Title IX Coordinator, to be addressed in a manner consistent with this policy.

## 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. 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 *Vice President for Equity and Inclusion* or other member of the *Bias Response Team*.

*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 under the *Investigation Process*;
- The opportunity to articulate concerns or issues about proceedings under these *Resolution Processes* with the *Vice President for Equity and Inclusion*;
- The opportunity to select an advisor of their choice;
- The opportunity to challenge the investigator 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);
- Reasonable time to prepare any response contemplated by these *Resolution Processes*;

### 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 *Vice President for Equity and Inclusion* no later than two (2) business days after receiving the notice

of the identity of the individual(s) assigned to the matter. The *Bias Response 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 *Vice President for Equity and Inclusion* 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 an *Investigation 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.

### 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 *Vice President for Equity and Inclusion*, the investigator or witnesses (other than their own advisee).
- 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. 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 Restorative Justice Process

A *Reporting Party* may seek to use a *Restorative Justice* process to attempt to resolve the concerns brought forth in their report. A *Restorative Justice Process* is overseen by an individual appointed by the *Bias Response Team*. The *Vice President for Equity and Inclusion* will maintain records for all *Restorative Justice* 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 *Restorative Justice*, to determine the type of *Restorative Justice* that may be appropriate in a specific case; and to refer a report for Investigation at any time.

*Reporting Parties* are encouraged to consider initiating *Restorative Justice* even in cases where the perpetrator(s) of *Prohibited Conduct* are unknown. In such instances, it may be useful for members of the community to meet to discuss the impact the *Prohibited Conduct* has had and to discuss questions they have about the College's response.

Participation in *Restorative Justice* is completely voluntary. The College will not require a *Reporting Party* or *Responding Party* to engage in *Restorative Justice*; will not compel the *Reporting Party* or the *Responding Party* to interact directly with each other; and will allow a *Reporting Party* or *Responding Party* to withdraw from *Restorative Justice* at any time. Even where one or both parties has either refused to participate or withdrawn from participation, the College may deem it useful to move forward with *Restorative Justice* efforts with other parties and/or community members. The College may decline a request for *Restorative Justice* in any particular case and may terminate an ongoing *Restorative Justice Process* at any time. The agreement to participate in *Restorative Justice* and any resolution reached is subject to the agreement of the *Bias Response Team*, the *Reporting Party* and any *Responding Party*.

Each party has the right to choose and consult with an advisor during a *Restorative Justice* process. The advisor may be any person, including an attorney, who is not otherwise a party or witness to the reported incident.

Pursuing *Restorative Justice* does not preclude use of the *Investigation Process*. The *Bias Response Team* may determine that the *Investigation Process* is appropriate to initiate even in cases where *Restorative Justice* is or has been engaged.

## C. Provisions for Investigation Process

### 1. Circumstances prompting the initiation of an *Investigation Process*

The *Investigation Process* is used when:

- A *Reporting Party* reports *Prohibited Conduct* and requests, at any time, that the College proceed with an investigation under this *Investigation Process*;
- Attempts to resolve a reported incident of *Prohibited Conduct* through the *Restorative Justice Process* are unsuccessful and the *Reporting Party* decides to initiate the *Investigation Process*; or
- In reviewing the nature of the report of *Prohibited Conduct*, the *Bias Response Team* determines, based upon the circumstances that investigation of the reported conduct is appropriate under the circumstances.

### 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), video recordings, computer files, and photographs (including those stored on computers and smartphones).

### 3. Timelines

The College will work expeditiously to complete the *Investigation Process* in a timely manner. However, the *Investigation Process* may be stalled due to various circumstances, such as 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.

### 4. Investigators

Whenever the *Investigation Process* commenced, the College will identify an investigator to conduct a prompt, thorough, fair, and impartial investigation. The investigator can be a designated employee of the College or an external investigator.

### 5. Notice of Investigation

The *Vice President for Equity and Inclusion* will notify the *Reporting Party* and the *Responding Party*, in writing, of the commencement of an investigation.

### 6. Investigation of other Code of Conduct violations

If a report of *Prohibited Conduct* also implicates other allegations of student violations of the College's Code of Conduct, the *Bias Response Team* will evaluate the allegations to determine whether the allegations can be added to the investigation or whether the allegations should be referred to the appropriate Dean.

### 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 concludes 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 *Investigation 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. 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*.

*c. 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. Investigation Determination

Once an investigator has collected all relevant information and completed the investigation, the investigator will notify the *Responding Party* of the Investigation Determination. The Investigation Determination will assess 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 also notify the *Vice President for Equity and Inclusion* of the investigator's decision.

## 10. Appeal of investigator's decision

If the investigator determines that a preponderance of the evidence supports a finding of responsibility, the *Responding Party* may appeal this decision by providing written notice of appeal to the *Bias Response Team*. Appeals must be received within five (5) business days of receipt the Investigation Determination.

The appeal will be reviewed by the *Bias Response Team* or its designee to determine whether the investigator's decision was clearly erroneous. Appealing the determination is not an opportunity for a re-hearing. The investigator's decision will not be changed unless the *Responding Party* demonstrates by a preponderance of the 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 *Bias Response Team* or its designee has the ability to affirm the investigator's decision, overturn the investigator's decision, or remand the matter for further investigation.

## 11. Sanctions

Sanctions imposed upon *Responding Parties* who are students will be imposed in consultation with the Dean of Students office. Sanctions may include the following: expulsion; suspension; 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 will be determined in consultation with Human Resources, and may include the following: disciplinary warnings, unpaid suspensions, suspension of promotion and salary increments, loss of prospective benefits, reduction in salary, suspension from service, suspension or withdrawal of privileges, demotion, termination of employment, and any other available sanctions as specified by the Staff Handbook as applicable.

If the *Responding Party* is a faculty member who is determined to have violated this Policy, sanctions will be determined in consultation with the Dean of the College. Sanctions will be determined and administered in a manner consistent with the Faculty Manual.

The propriety of any particular sanction is reviewed on an individual basis based on the unique facts and circumstances. In keeping with the College's commitment to foster an environment that is safe, inclusive, and free of *Prohibited Conduct*, the *Investigation Process* provides the College 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 sanctioning authority 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 sanctioning authority

### 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 *Bias Response Team* may exercise discretion to determine an alternative investigative and sanctioning process that is deemed more appropriate based on the facts and circumstances of the matter. The *Vice President for Equity and Inclusion* 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 *Responding Party* of the outcome of the process. Any party with concerns about the process or outcome should consult with the *Vice President for Equity and Inclusion*.

## VII. POLICY REVIEW

### A. 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](mailto:OCR.Chicago@ed.gov)