

# Policy Prohibiting Sexual Harassment

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# ST. OLAF COLLEGE POLICY PROHIBITING UNLAWFUL DISCRIMINATION, HARASSMENT & RETALIATION

[DOWNLOAD PDF VERSION OF POLICY \(HTTPS://WP.STOLAF.EDU/TITLE-IX/FILES/2025/01/NEW-TITLE-IX-POLICY-FINAL-VERSION\\_20250122.PDF\)](https://wp.stolaf.edu/title-ix/files/2025/01/new-title-ix-policy-final-version_20250122.pdf)

(updated January 21, 2025)

# I. OVERVIEW, SCOPE OF POLICY AND POLICY STATEMENT OF SEXUAL HARASSMENT

## 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, welcoming, safe, and healthy environment for all Students, staff, faculty, and guests. To that end, the College prohibits all forms of Sexual Harassment, sexual assault, domestic violence, sexual exploitation, dating violence, and stalking. 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 Sexual Harassment, preventing its recurrence and remedying its effects.

## B. Scope of Policy

The College will apply this Policy to address all concerns relating to unwelcome conduct of a sexual nature when alleged to have been committed by or directed toward a current or prospective student or employee, or any other individual participating or seeking to participate in a St. Olaf program or activity. It is the intent of St. Olaf College that this policy will apply to the following:

1. Allegations of Sexual Harassment within the scope of Title IX pursuant to 34 C.F.R. Section 106;
2. Allegations of sexual assault, dating violence, domestic violence and stalking involving members or prospective members of the St. Olaf community that may otherwise fall outside the scope of Title IX because the alleged incident(s) occurred outside of the United States, or occurred outside of a St. Olaf program or activity; and
3. Any other allegations of unwelcome conduct of a sexual nature (NOTE: The College may not apply every aspect of the Complaint Resolution Process to allegations that do not fall within #1 and #2 above)

St. Olaf College is committed to addressing Sexual Harassment, and the College strongly encourages any individual who knows of or has been subject to Sexual Harassment 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, and even if the individual is uncertain whether an incident involves Sexual Harassment that falls within the scope of this policy.

## C. Policy Statement on Sexual Harassment

The College expressly prohibits all forms of Sexual Harassment including sexual assault, sexual violence, sexual exploitation, dating violence, domestic violence, and stalking. Retaliation against a person who in good faith reports suspected Sexual Harassment or against an individual who assists in an Investigation into a report of Sexual Harassment is also strictly prohibited. Reports of retaliation are investigated under the College's [Policy Prohibiting Unlawful Discrimination, Harassment & Retaliation](https://wp.stolaf.edu/nondiscrimination/policy/) (<https://wp.stolaf.edu/nondiscrimination/policy/>).

Questions or concerns regarding Sexual Harassment may be referred to St. Olaf's Director of Equal Opportunity. St. Olaf's Director of Equal Opportunity is Pamela McDowell, Tomson Hall 130B, [mcdowell@stolaf.edu](mailto:mcdowell@stolaf.edu) (<mailto:mcdowell@stolaf.edu>), 507-786-3465. The Director of Equal Opportunity serves as the College's Title IX Coordinator to oversee the College's compliance with Title IX.

### 1. How does this Policy Differ from the College's Consensual Relations Policy?

The College 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](https://wp.stolaf.edu/facultyhandbook/consensual-relations-policy/) (<https://wp.stolaf.edu/facultyhandbook/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, 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 Sexual Harassment, 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.

## **2. Why are there separate policies for Sexual Harassment and other forms of discrimination?**

There are unique obligations that the College must follow when responding to reports of Sexual Harassment. Because the College's obligations are different with respect to Sexual Harassment, the College has a separate Policy Prohibiting Sexual Harassment. Questions relating to the College's response to other forms of discrimination and harassment, including gender discrimination, are addressed in the [Policy Prohibiting Unlawful Discrimination, Harassment \(https://wp.stolaf.edu/title-ix/policy/\)](https://wp.stolaf.edu/title-ix/policy/) & Retaliation. All forms of Sexual Harassment are addressed in this policy.

## **II. KEY INTERNAL AND EXTERNAL RESOURCES**

### **A. St. Olaf Responsible Administrative Staff**

#### **1. Director of Equal Opportunity /Title IX and Section 504 Coordinator.**

The Director of Equal Opportunity serves as the Title IX Coordinator and is responsible for coordinating all aspects of the College's gender equity compliance efforts, including the College's efforts to prevent Sexual Harassment. The Director of Equal Opportunity 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 Director of Equal Opportunity's responsibilities include:

- Ensuring the College's compliance with all administrative requirements of Title IX, and other applicable state and federal laws including Title VI, Title VII, the Americans with Disabilities Act, the Rehabilitation Act, and the Minnesota Human Rights Act;
- Advising individuals about St. Olaf's Policy and Reporting options;
- Providing assistance to Employees of the College about how to respond to Reports Sexual Harassment;

- Coordinating the College’s response to all Complaints alleging sex discrimination and/harassment;
- Explaining options, resources, and referrals to Reporting Parties regardless of whether their reports move to the Complaint Resolution Process;
- Coordinating the provision of support services and/or supportive measures;
- Communicating with the Reporting Party and Respondent about available supportive measures, both on and off campus;
- Identifying and removing barriers to Reporting Sexual Harassment; and
- Overseeing training, prevention and education efforts, and periodic reviews of the campus climate and culture.

The Director of Equal Opportunity leads the Equal Opportunity COordinated REsponse (“CORE”) Team and the Equal Opportunity Team as described below.

## 2. CORE Team.

The CORE Team is responsible for assessing all reports of Sexual Harassment and determining what actions the College will take in response to each report. The CORE team seeks to ensure the College’s response is prompt, fair, impartial and consistent with this Policy. The CORE Team seeks to ensure an equitable process for the individuals participating in a Complaint Resolution Process while also safeguarding the well-being of the College community. The CORE Team includes the following individuals:

### St. Olaf College CORE Team

Director of Equal Opportunity/Title IX and Section 504 Coordinator	Pamela McDowell	Tomson Hall 130	<del>507-786-3465</del>
Vice President for Community and Belonging	Eduardo Pazos	Tomson Hall 258	<del>507-786-3334</del>
Deputy Athletic Director	Kelly Mahlum	Skoglund 114G	<del>507-786-3258</del>
Director of Public Safety	Derek Kruse	Tomson Hall 10D	<del>507-786-3258</del>

Associate Dean of Students for Residence Life	Christopher Medley	Tomson Hall 148	507-786-3615
Director of Faculty Inclusion and Belonging	Susan Smalling	Holland Hall 601	507-786-3350

The responsibilities of the CORE Team include:

- Conducting an initial assessment of Reports to determine whether alleged conduct falls within the scope of this Policy;
- Assessing whether a Formal Complaint should be dismissed and/or referred to a different College process;
- Evaluating whether and how the College will proceed under this Policy in a manner that provides a prompt, thorough, fair and equitable process for the individuals involved;
- Overseeing intake and Supportive Measures for individuals who Sexual Harassment;
- Confirming that Supportive Measures have been offered to all Parties involved in a response to each report of Sexual Harassment;
- Evaluating Supportive Measures for their effectiveness in restoring Party's equal access to the ability to participate in or benefit from the College's educational programs and activities;
- If a Reporting Party requests that the College not investigate and adjudicate a matter, the CORE Team will honor that request. Only under exceptionally rare circumstances would the CORE Team determine that further action is legally required;
- Overseeing the comprehensive, accurate, and equitable provision of relevant information on College policies, practices, supportive measures, and resources to Reporting and Responding Parties;
- Coordinating the work of the Dean of Students Office and the Office of Public Safety in responding to each report of Sexual Harassment;
- Determining whether notification to the St. Olaf community is necessary when a report of sexual assault, stalking, dating violence, or domestic violence has been received to comply with Clery Act or other legal obligations;
- Reviewing and recommending improvements to Title IX policies and protocols in light of the experiences of Reporting and Responding Parties; and

- Coordinating and overseeing data collection and Reporting in compliance with relevant federal and state statutes.

### 3. Equal Opportunity Team.

#### St. Olaf College Equal Opportunity Team

Director of Equal Opportunity/ Title IX and Section 504 Coordinator	<a href="mailto:mcdowell@stolaf.edu">Pamela McDowell</a> ( <a href="mailto:mcdowell@stolaf.edu">mailto:mcdowell@stolaf.edu</a> )	Tomson Hall 130	507-786-3465
Director of Public Safety	Derek Kruse	Tomson Hall 10D	507-786-3636
Deputy Athletic Director	Kelly Mahlum	Skoglund Athletic Center 114G	507-786-3258
Dean of Students	<a href="https://www.stolaf.edu/profile/reaton">Rosalyn Eaton</a> ( <a href="https://www.stolaf.edu/profile/reaton">https://www.stolaf.edu/profile/reaton</a> )	Tomson Hall 148	507-786-3615
Associate Dean of Students	<a href="https://www.stolaf.edu/profile/flemingj">Justin Fleming</a> ( <a href="https://www.stolaf.edu/profile/flemingj">https://www.stolaf.edu/profile/flemingj</a> )	Tomson Hall 148	507-786-3615
Vice President for Community and Belonging	Eduardo Pazos	Tomson 258	507-786-3334.
Associate Dean of Students	Chang Dao Vang	Tomson Hall 148	507-786-3615
Interim Director of the Smith Center for Global Engagement	<a href="https://www.stolaf.edu/profile/malmgren">Theresa Heath</a> ( <a href="https://www.stolaf.edu/profile/malmgren">https://www.stolaf.edu/profile/malmgren</a> )	Tomson Hall 380	507-786-3228
Associate Dean of Students	Christopher Medley	Tomson Hall 148	507-786-3615

Assistant Vice President for Human Resources		Tomson Hall 180	507-768-3068
Vice President for Student Life	<u>Hassel Morrison</u> ( <a href="https://www.stolaf.edu/directory/search?department=Dean%2Bof%2BStudents">https://www.stolaf.edu/directory/search?department=Dean%2Bof%2BStudents</a> )	Tomson Hall 148	507-786-3503
Director of the Taylor Center for Equity and Inclusion	<u>Martin Olague</u> ( <a href="https://www.stolaf.edu/directory/search?department=Taylor%2BCenter%2Bfor%2BEquity%2Band%2BInclusion">https://www.stolaf.edu/directory/search?department=Taylor%2BCenter%2Bfor%2BEquity%2Band%2BInclusion</a> )	Buntrock Commons III	507-786-3060
Associate Dean of Students	<u>Tim Schroer</u> ( <a href="https://www.stolaf.edu/profile/schroert">https://www.stolaf.edu/profile/schroert</a> )	Tomson Hall 148	507-786-3615
Director of Faculty Inclusion and Belonging	Susan Smalling	Holland Hall 601	507-786-3350
Associate Director of Disability and Access	Laura Knobel-Piehl	Tomson Hall 151	507-786-3966

The responsibilities of the Equal Opportunity Team include:

- Overseeing the content and implementation of this Policy;
- Overseeing and assisting with education and prevention efforts aimed at eliminating all forms of gender discrimination, including Sexual Harassment;
- Receiving Reports of Sexual Harassment and forwarding them to the Director of Equal Opportunity for intake and supportive measures;
- Overseeing efforts to educate the St. Olaf community concerning this Title IX policies and procedures;
- Overseeing efforts to assess the campus climate and ensure appropriate response to any findings;
- Ensuring College programs and activities are equitable for participants of all genders;
- Collaborating with the CORE Team;
- Overseeing the use of College resources in carrying out this Policy and achieving its purposes.

## B. Governmental Authorities

The governmental authorities responsible for enforcing applicable federal and state laws relating to this Policy, are the following:

### U.S. Department of Education / Office for Civil Rights

Citigroup Center

500 W. Madison Street, Suite 1475

Chicago, IL 60661-4544.

312-730-1560 (phone)

877-521-2172 (TDD)

Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov) (<mailto:OCR.Chicago@ed.gov>).

### Minnesota Department of Human Rights

Freeman Building

625 Robert Street

North Saint Paul, MN 55155

800-657-3704 (phone)

877-521-2172 (TDD)

800-627-3529 (fax)

800-627-3529 (TDD)

<http://mn.gov/mdhr/> (<http://mn.gov/mdhr/>) [Info.MDHR@state.mn.us](mailto:Info.MDHR@state.mn.us)

(<mailto:Info.MDHR@state.mn.us>)

## III. DEFINITIONS

### A. General Policy Definitions

1. **Confidential Resources** are individuals who can receive confidential communications, defined as communications which cannot be disclosed to another person without the authorization 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 the Director of Equal Opportunity or a member of the Equal Opportunity Team.

2. **Policy** means the St. Olaf Policy Prohibiting Sexual Harassment.
3. **Report** means information forwarded to the Director of Equal Opportunity or a member of the Equal Opportunity Team alleging Sexual Harassment. In most cases a Report does not initiate any action by the College beyond providing the individual alleged to have experienced Sexual Harassment with information about Supportive Measures and other resources and options for response if the individual so chooses. A Report is distinguished from a Formal Complaint which initiates the College's Complaint Resolution Process.
4. **Retaliation** under this policy means intimidation, threats, coercion, or discrimination against any individual because the individual has made a report, testified, assisted, or participated or refused to participate in any manner in an Investigation, proceeding, or Hearing under this Policy, for the purpose of interfering with any right or privilege secured by Title IX or this Policy. Retaliatory acts may include, but are not limited to: adverse changes in employment status or opportunities; adverse academic action; adverse changes to academic, educational and extra-curricular opportunities; harassment or intimidation; acts or comments intended to embarrass the individual; or seeking out or attempting to discover the Parties and witnesses involved in a report for the purpose of influencing their participation or statements, or taking adverse action against them.
5. **Required Referrals** are Employees who are not Confidential Resources and who are expected to immediately share all known details about any incident of Sexual Harassment with the Director of Equal Opportunity or other member of the Equal Opportunity Team. Students who are employed with the College are also Required Referrals if they learn about an incident of Sexual Harassment as a result of their employment position.
6. **Student** means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing educational relationship with St. Olaf College.
7. **Supportive Measures** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Reporting Party before or after the filing of a Formal Complaint and to a Respondent if and when notified of a Formal Complaint. Such measures are designed to provide support to each Party and to restore or preserve equal access to the College's education program or activity. Supportive Measures may include measures designed to protect the safety of

each Party and the College's educational environment. Supportive Measures may not unreasonably burden a Reporting Party or Respondent.

## B. Sexual Harassment Definitions

1. **Coercion** or **Force** means 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 in response to 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.
  
2. **Consent** means 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 an interest and 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, or 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, nonconsensual sexual contact. 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.

### Examples of Verbal and Non-verbal Conduct that May or May Not Provide 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 the column shaded green (left) are indicative of unambiguous affirmative Consent. Those in the column shaded yellow (middle) are less clear, and may or may not be a sufficient indication of Consent depending upon other circumstances. Those in the column shaded red (right) are, when viewed alone, highly unlikely to be deemed an expression of Consent.

<p>“Yes!”            “I would like...” “I want you to...”</p>	<p>Nodding yes after being asked for Consent            Giving a thumbs up in response to a request            Smiling in response to a request</p>	<p>“No”            “I don’t know...”            “Can you use a condom?”            Silence or a lack of resistance</p>
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Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining consent

3. **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 Harassment. Use of drugs or alcohol does not diminish one's responsibility to obtain Consent or reduce one's personal accountability. 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 may include 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.

4. **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.

5. **Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:

- A faculty or staff member conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; or
- Sexual assault, dating violence, domestic violence, and stalking. Sexual Harassment may include unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal, nonverbal or physical conduct or communication of a sexual nature. 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, unwelcome 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.

6. **Sexual Misconduct** means criminal sexual behavior including any of the following:

- a. **Sexual Assault** means an offense classified as a forcible or nonforcible sex offense under the uniform crime Reporting system of the Federal Bureau of Investigation. Sexual assault is any unwelcome sexual contact with another person who does not or cannot give consent. This includes the following crimes:
  - i. **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, 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.

- ii. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental incapacity.
  - iii. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - iv. **Statutory Rape:** Sexual penetration or other form of sexual contact with a person who is under the statutory age of Consent.
- b. **Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. 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.
- a. The existence of such a relationship will be determined based on a consideration of the following factors:
    - The length of the relationship;
    - The type of relationship; and
    - The frequency of interaction between the persons involved in the relationship.
- c. **Domestic Violence** means felony or misdemeanor crimes committed by a person who:
- Is a current or former spouse or intimate partner of the victim under Minnesota law, or a person similarly situated to a spouse of the victim;
  - Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - Shares a child in common with the victim; or
  - Commits acts against a youth or adult victim who is protected from those acts under the family or Domestic Violence laws of the jurisdiction. 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.
- d. **Intimate Partner Violence** means any physical or sexual harm or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior against an individual, that may be classified as a sexual misconduct, dating violence, or domestic violence caused by:
- a current or former spouse of the individual; or

- a person in a sexual or romantic relationship with the individual.

e. **Stalking** means engaging in two or more acts directed at a specific person that would cause a reasonable person to fear for the person's safety or 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. 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 place of residence, 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;
- Excessive posting of 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."

f. **Sexual Exploitation** is taking non-consensual sexual advantage of another person.

Examples of sexual exploitation include, but are not limited to:

- Threatening to disclose an individual's sexual orientation, gender identity, or gender expression;
- Sexual extortion;
- 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 recording or dissemination of images, photography, video, or audio recording of sexual contact or nudity;
- Creating and/or disseminating "deep fake" sexual images depicting intimate parts or sexual acts;
- Voyeurism;
- Creation, possession or dissemination of child pornography;
- Sex trafficking;
- Misleading or lying about use of contraception;

- Extending the bounds of consensual sexual contact without the knowledge of the other individual.
  - Distributing intimate or sexual information about a person without Consent;
  - Knowingly exposing or transmitting a sexually transmitted infection to another person; and
  - Inducing incapacitation for the purpose of taking sexual advantage of another person.
- g. **Sexual Intimidation** involves threatening another person that the perpetrator will commit a sex act against them or engaging in indecent exposure.
- h. **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. Complaint Resolution Process Definitions

1. **Advisor** means a person selected by a Reporting Party or Respondent to assist that Party during a Complaint Resolution Process. An Advisor may accompany the Party to all meetings during the Complaint Resolution Process. The Advisor may also accompany the Party to all meetings conducted under an Informal Resolution Process. The Advisor may not communicate directly with process facilitators, Investigators, adjudicators or other College personnel involved in administering this Policy; however, an Advisor may assist a Party with preparing statements, communications and other materials during the Complaint Resolution Process.
2. **Appeal Adjudicator** means the trained adjudicator assigned by the Director of Equal Opportunity to determine any appeals following the Investigation and adjudication phases of the Complaint Resolution Process. The appeal phase is the final phase (Phase 8) of the Complaint Resolution Process.
3. **Complaint Resolution Process** means the process used by the College to investigate, adjudicate and respond to Complaints of Sexual Harassment. As explained in Section VIII below, the initiation of a Formal Complaint is the first phase of the Complaint Resolution Process.
4. **Disciplinary Sanctions** means consequences imposed on a Respondent following a determination that the Respondent violated this Policy's prohibition on Sexual Harassment. Disciplinary Sanctions are imposed following an Investigation during the Disciplinary Sanctions and Remedies Phase (Phase 7) of the Complaint Resolution Process.
5. **Dismissal** refers to a review of the Formal Complaint that the Director of Equal Opportunity and CORE Team performs to determine whether the Formal Complaint should

- proceed under the Complaint Resolution Process, or be dismissed or referred to a different College office. Dismissal review occurs during Phase 3 of the Complaint Resolution Process.
6. **Formal Complaint** means a written request to the College that objectively can be understood as a request for the College to initiate a Complaint Resolution Process to investigate and determine whether Sexual Harassment prohibited by this Policy has occurred.
  7. **Hearing** refers to the proceeding where the Parties have equal opportunity to address the evidence with the Hearing, including the opportunity to, through their Advisor, ask questions of any other Party or witness.
  8. **Hearing Panel** means the three trained personnel assigned by the Director of Equal Opportunity to convene the Hearing and determine whether it is more likely than not that the Respondent committed violated the Policy and if so, determine Disciplinary Sanctions and Remedies.
  9. **Informal Resolution Process** means the voluntary, structured dialogue between each Party and a trained facilitator intended to attempt to resolve allegations of Sexual Harassment apart from a Complaint Resolution Process. The Informal Resolution Process is intended to be flexible while providing for a full range of possible outcomes through dialogue with the facilitator. In certain circumstances Informal Resolution is not legally permissible. When each Party has expressed interest in the Informal Resolution Process, the CORE Team will determine whether Informal Resolution is appropriate for the particular matter. When permissible, the Informal Resolution Process can be utilized at any point prior to the conclusion of the Complaint Resolution Process.
  10. **Investigation** means the phase of the Complaint Resolution Process where evidence is gathered by a trained Investigator and the Parties have an equal opportunity to offer fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible, in order to determine whether it is more likely than not that the Respondent committed Harassment, Discrimination or Retaliation. The Investigation phase is Phase 4 of the Complaint Resolution Process.
  11. **Investigator** means a trained individual assigned by the Director of Equal Opportunity to conduct a fair and impartial Investigation and issue an Investigation Report summarizing the Investigation findings.
  12. **Notice of Allegations** means a document the Director of Equal Opportunity prepares after a Formal Complaint is brought to apprise the Parties of information about the Complaint Resolution Process and the Parties' rights. The Notice of Allegations is provided during Phase 2 of the Complaint Resolution Process.
  13. **Notice of Decision** means the document that the Hearing Panel prepares following the Investigation and adjudication of the Complaint to notify the Parties whether the Investigator concluded that it is more likely than not that Sexual Harassment occurred. In cases where the Hearing Panel has determined that a preponderance of evidence supports a finding that the Respondent committed Sexual Harassment, the Notice of Decision will also include the Disciplinary Sanctions and Remedies imposed by the Hearing Panel.
  14. **Party** means a Reporting Party or Respondent.

15. **Relevant** means related to the allegations of Sexual Harassment under Investigation as part of the Complaint Resolution Process applicable under this Policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged Sexual Harassment occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged Sexual Harassment occurred.
16. **Remedies** means measures provided, as appropriate, to a Reporting Party or any other person identified as having had their equal access to the College's education program or activity limited or denied by Sexual Harassment. These measures are provided to restore or preserve that person's access to the College's education program or activity after a Complaint Resolution Process has resulted in a determination that Sexual Harassment occurred. Remedies are identified following an Investigation during the Disciplinary Sanctions and Remedies Phase (Phase 7) of the Complaint Resolution Process.
17. **Reporting Party** means
- a. A Student or Employee who is alleged to have been subjected to conduct that could constitute Sexual Harassment prohibited by this Policy; or
  - b. A person other than a Student or Employee who is alleged to have been subjected to conduct that could constitute Sexual Harassment under this Policy and who was participating or attempting to participate in a St. Olaf education program or activity at the time of the alleged prohibited conduct.
18. **Respondent** means a person who is alleged to have violated this Policy's prohibitions against unlawful Sexual Harassment.

## V. REPORTING ALLEGED SEXUAL HARASSMENT

### I. Overview

This section addresses Reports of known or suspected incidents of Sexual Harassment, and the ways in which such Reports may be made. While Required Referrals are the only individuals required to make Reports, everyone is encouraged to Report any incident of Sexual Harassment so that those who experience such conduct can understand their options and access Supportive Measures. There are no time limitations on when a Report to the College may be made; but delaying a Report may impact the College's ability to access evidence, investigate the claims, and/or adequately respond.

### I. *Who Can Report? Who Must Report?*

2. **Employees / Required Referrals.** Employees of St. Olaf College who are not Confidential Resources as defined in section IV. D. 1 are Required Referrals, and are

expected to immediately share all known details about any incident of Sexual Harassment with the Director of Equal Opportunity or other member of the Equal Opportunity Team. Students who are employed with the College, and who learn about such incidents during the course and scope of their College employment are also Required Referrals. Reports may be made in person, by telephone, or electronically. If possible, before obtaining information from a Reporting Party, Required Referrals should inform the Reporting Party of the Employee's Reporting obligations and inquire whether the Reporting Party would rather speak with a Confidential Resource.

Notwithstanding the foregoing, Employees who themselves experience Sexual Harassment are not required to Report their own experience as a Required Referral. While these employees are not required to Report such incidents, they are encouraged to Report their experience so that the College can assist them in accessing Supportive Measures and understanding their rights.

1. **Students.** Students are encouraged to Report known or suspected incidents of Sexual Harassment to the Director of Equal Opportunity or any other members of the Equal Opportunity Team. Students are not required to Report information unless they are also a Required Referral (i.e., Student employees who learn about the Sexual Harassment during the course and scope of their employment with the College).

## 2. What Must be Reported?

1. **Reporting Sexual Harassment.** Employees making a required referral may Report to the Director of Equal Opportunity or member of the Equal Opportunity Team using any of the Reporting methods described below. Employees making a required referral should provide all known details including, if available, the date, time and location of the incident; the names of individuals involved and other individuals who may have witnessed the incident; and a brief description of the incident. Although Required Referrals should provide all information learned from a Reporting Party, Employees should not attempt to investigate or gather details about the incident beyond the information that the Reporting Party seeks to share. Prompt and complete Reporting will assist the College in providing timely support and assistance.

While Employees are obligated to Report any information they may have regarding Sexual Harassment, they should respect the confidentiality of the individuals involved by not further disclosing information to other individuals without the Reporting Party's authorization.

# I. To Whom May Reports be Directed?

- I. **Confidential Resources.** Individuals who have experienced Sexual Harassment may obtain support and other resources from Confidential Resources. Confidential Resources can also provide basic information about College, community, and, when applicable, law enforcement options. At St. Olaf, Confidential Resources include the following:

[Counseling Center \(https://wp.stolaf.edu/counseling-center/\)](https://wp.stolaf.edu/counseling-center/)

New Hall 046

[counselingcenter@stolaf.edu \(mailto:counselingcenter@stolaf.edu\)](mailto:counselingcenter@stolaf.edu)

507-786-3062

[College Pastors & Chaplains \(https://wp.stolaf.edu/ministry/staff/\)](https://wp.stolaf.edu/ministry/staff/)

Boe Memorial Chapel, Lower Level

[ministry@stolaf.edu \(mailto:ministry@stolaf.edu\)](mailto:ministry@stolaf.edu)

507-786-3092

[Student Health Service \(https://wp.stolaf.edu/health/\)](https://wp.stolaf.edu/health/)

New Hall 063

[healthservices@stolaf.edu \(mailto:healthservices@stolaf.edu\)](mailto:healthservices@stolaf.edu)

507-786-3064

[Sexual Assault Resource Network \(SARN\) \(https://pages.stolaf.edu/sarn/\)](https://pages.stolaf.edu/sarn/)

Buntrock Commons 14A

[sarn@stolaf.edu \(mailto:sarn@stolaf.edu\)](mailto:sarn@stolaf.edu)

507-649-3367

[TimelyCare \(https://pages.stolaf.edu/sarn/\)](https://pages.stolaf.edu/sarn/)

Via mobile app

- I. **Reporting to the Director of Equal Opportunity.** Reporting to the Director of Equal Opportunity does not necessarily initiate a Formal Complaint or a Complaint Resolution Process. It can simply be an opportunity to obtain further information about options and access to available resources and Supportive Measures the College can take to sustain the Reporting Party's access to College programs and activities. Reporting to the Director of Equal Opportunity provides individuals the opportunity to better understand their options and to assess whether they wish to pursue further courses of action such as initiating a Formal Complaint and/or notifying law enforcement.

Even if Reporting Parties are not interested in or uncertain about initiating the Complaint Resolution Process, they are strongly encouraged to Report to the Director of Equal Opportunity so that they can better understand and readily access the Supportive Measures and other options available to them under this Policy. Reporting to the Director of Equal

Opportunity does not obligate the Reporting Party to initiate or participate in a Complaint Resolution Process. The College will honor an individual's preferences about whether to proceed with the Complaint Resolution Process, and will only take additional measures in the rare instances when the College believes further action is legally required or absolutely necessary for safety purposes. Resources and Supportive Measures are available regardless of whether a Complaint Resolution Process is initiated.

1. **Reporting to another member of the Equal Opportunity Team.** Individuals may choose to Report incidents of Sexual Harassment to any member of the Equal Opportunity Team (see Section II A3). The Director of Equal Opportunity is notified of all Reports received by any member of the team.
  2. **Reporting to Public Safety.** Individuals may notify St. Olaf's [Public Safety Office \(https://wp.stolaf.edu/publicsafety/\)](https://wp.stolaf.edu/publicsafety/) of instances of Sexual Harassment. This method of Reporting may be of greatest assistance in circumstances where there is a security threat and/or an immediate need of assistance. 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). Public Safety can be contacted at (507) 786-3666.
- 
1. **Reporting to Faculty and Staff.** All Employees of the College, with the exception of Confidential Resources, are Required Referrals and responsible for making Reports to the Director of Equal Opportunity of all known or suspected Sexual Harassment.
- 
1. **Anonymous Reporting.** The College maintains an online Reporting [form \(https://wp.stolaf.edu/title-ix/Report-sexual-violence/\)](https://wp.stolaf.edu/title-ix/Report-sexual-violence/) for any member of the St. Olaf community to anonymously Report Sexual Harassment that the Reporter has either experienced or witnessed. The information provided is forwarded to the Director of Equal Opportunity. The Director of Equal Opportunity will act upon all information received to the extent there is actionable information provided. Reports are also utilized for Reporting purposes to state and federal authorities, and used by the College to better understand the incidence of Sexual Harassment in our community and to aid in education, prevention, and response efforts.

The College's ability to respond to an anonymous Report may be limited depending upon the information it receives. If a Reporting Party is identified in an anonymous Report, the Director of Equal Opportunity will contact the Reporting Party to offer information and Supportive Measures. Because a Formal Complaint must be initiated by an individual who experienced the conduct or by the Director of Equal Opportunity under certain circumstances, an anonymous Report will not necessarily trigger the Complaint Resolution Process.

1. **Reporting to law enforcement** – Individuals who believe they have been a victim of criminal conduct, such as a Hate Crime or Sexual Misconduct (including Sexual Assault, Dating Violence, Domestic Violence or Stalking) are strongly encouraged to notify the Northfield Police Department. Notifying law enforcement is independent of a Report to the College. Sometimes Reporting Parties opt to only Report to the College; other times they opt only to notify law enforcement; and other times they opt to notify both.

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. If the Reporting Party would like an advocate, Advisor, or parent to attend the meeting with the Northfield Police, assistance with these arrangements will also be made.

Telephone contact information for the Northfield Police Department:

Emergency Number: 911

Non-Emergency Number: 507-645-4475

Individuals should not assume that information Reported to College authorities will be Reported to law enforcement. Legal guidelines preclude the College from Reporting incidents of sexual violence to law enforcement without the authorization of the Reporting Party (unless such Reporting is mandated under Minnesota's child or vulnerable adult abuse and neglect statutes).

In instances where the police have been contacted about a matter involving Sexual Harassment that may also be crime, the College will cooperate with the Northfield Police in obtaining, securing, and maintaining evidence. The College and the Northfield Police Department are Parties to a Memorandum of Understanding that addresses cooperation, communication and collaborative efforts between the College and the Northfield Police Department in our joint efforts to prevent and respond effectively to Sexual Misconduct, Dating Violence, Domestic Violence and Stalking.

# Rights of Crime Victims in Minnesota

Minnesota law provides certain rights to individuals who Report crimes to law enforcement. These rights pertain to responsibilities of police and prosecutors when a crime is Reported. This is separate and apart from the process St. Olaf uses when 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:

## **Notification. 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.

## **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.

**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.

**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.

**1. How Can Reports be Submitted?**

St. Olaf is committed to providing Reporting options through multiple avenues which are broadly accessible to all members of the St. Olaf community. Any person may Report Sexual Harassment (whether or not the person Reporting is the person alleged to be the victim of such conduct), in person, by mail, by telephone, or by email, to the Director of Equal Opportunity. Reports may be submitted at any time of day and at any point during the year. Reports may be made by completing the College's on-line Reporting [form \(https://wp.stolaf.edu/title-ix/Report-sexual-violence/\)](https://wp.stolaf.edu/title-ix/Report-sexual-violence/) which is automatically delivered to the Director of Equal Opportunity.

Individuals can also contact the Director of Equal Opportunity or another member of the Equal Opportunity Team in person, by mail, telephone, or by email.

Reports may be made anonymously; however, depending upon the information provided in a Report, the College may be limited in its ability to respond.

#### 1. Prohibition Against False Reports

The willful filing of a false Report is a violation of this Policy, as well as the Student Code of Conduct. Charging an individual with a violation of the Code of Conduct for making a materially false statement in bad faith in the course of a Report, Formal Complaint, or Complaint Resolution Process under this Policy does not constitute Retaliation.

#### 1. Access to Report

A person who Reports an incident to the College will be provided access to their Report upon request, consistent with state and federal laws governing privacy of and access to education records. A request for access to a Report should be made to the Director of Equal Opportunity.

## VI. INITIAL STEPS AFTER A SEXUAL HARASSMENT REPORT IS RECEIVED BY THE COLLEGE

### A. Initial Contact with Director of Equal Opportunity

After receiving notification of conduct that may reasonably constitute Sexual Harassment, the Director of Equal Opportunity will promptly contact the Reporting Party to explain the options for addressing a Report.

The Director of Equal Opportunity 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 Supportive Measures, and how to request them;
- Inform the Reporting Party of the right to initiate the College's Complaint Resolution Process and/or the Informal Resolution Process (when applicable);
- Explain the College's prohibition against Retaliation and that the College will take prompt action in response to any act of alleged Retaliation;

- When applicable, inform the Reporting Party of the right to seek medical treatment and explain the importance of obtaining and preserving forensic and other evidence; and
- When the conduct may involve a crime, inform the Reporting Party of the right to contact law enforcement, decline to contact law enforcement, and/or seek a protective order.

Generally, the options available to a Reporting Party include but are not limited to one or more of the following:

- Taking no action;
- Arranging Supportive Measures to assist the Reporting Party's full participation in the College's education programs and activities;
- Requesting that the Director of Equal Opportunity have a conversation with the Respondent about the Report;
- Engaging in an Informal Resolution Process with the Respondent;
- Initiating a Complaint Resolution Process under this Policy that will result in a determination of whether the Respondent is responsible for Sexual Harassment.

The Reporting Party has the right to decide whether to take any action to address the alleged conduct, whether to seek Supportive Measures, and whether to be involved in an Informal Resolution Process or a Complaint Resolution Process addressing the conduct. Under some circumstances, as described in Section VIII B Phase I below, the Director of Equal Opportunity may determine that the College will initiate a Formal Complaint and Complaint Resolution Process to address the Sexual Harassment even if the Reporting Party decides not to participate in the Complaint Resolution Process.

The College will treat the Reporting Party with dignity and will not make any suggestion that the Reporting Party is at fault for the alleged incident or that the Reporting Party should have acted in a different manner to avoid such an incident.

If an Informal Resolution Process, Complaint Resolution Process or other steps are being taken to address the concerns with a Respondent, the Director of Equal Opportunity will meet with the Respondent to inform them of the Report and to discuss the availability of Supportive Measures during any ensuing process.

When responding to a Report of Sexual Harassment, and throughout any Informal Resolution Process and Complaint Resolution Process, the Director of Equal Opportunity will treat the Reporting Party and Respondent equitably.

## B. Availability of Supportive Measures

At any time after a Report of Sexual Harassment is received, the College will arrange for reasonable and appropriate Supportive Measures aimed at protecting the well-being and safety of each Party. Supportive Measures are actions taken to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other Party. They include measures designed to protect the safety of all Parties and the College's educational environment. Supportive Measures foster a comfortable and safe educational, residential and working environment. Supportive Measures may be requested by a Reporting Party at any time after a Report is received, or by a Respondent at any time after being made aware of a Report. Supportive Measures may also be initiated by the College. Supportive Measures are available regardless of whether a Report proceeds to the Complaint 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 that St. Olaf may take include:

- Access to counseling, medical, and other confidential services and assistance in setting up initial appointments on and off campus.
- A College-imposed mutual "limited-contact directive" prohibiting intentional or on-going unintentional contact between individuals.
- Assistance in petitioning a court for an order for protection / harassment restraining order.
- Making information available about and providing assistance with respect to orders for protection and harassment restraining orders, including enforcement of such orders.
- Providing campus security escorts to assure safe movement on campus.
- Rescheduling of exams or assignments.
- Providing alternative course completion options.
- Providing other academic Supportive Measures, such as tutoring.
- Assisting in setting up potential accommodations (academic, employment or otherwise) through the Disability and Access Office or other relevant departments.
- Changing a Student's class schedule.
- Extensions of work deadlines, work schedules, assignments, and other workplace accommodations;
- Changing campus housing arrangements and assistance with housing relocation.
- Limiting access to certain College residence halls, facilities or activities pending a Complaint Resolution Process.
- Voluntary leave of absence.

- In cases where the Reporting Party 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, residential and/or working environment.

Supportive Measures are offered 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 Party, the age of the individual(s) involved, the severity and pervasiveness of the allegations, any continuing effects on the other Party, whether the Reporting Party and the Respondent share the same residence hall or assigned work location, and whether other measures have been taken to protect the Reporting Party and Respondent. Supportive Measures may not unreasonably burden either Party. They will be designed to protect the safety of the Parties and the educational environment and to provide support during the Formal Complaint and Complaint Resolution Process or Informal Resolution Process. Supportive Measures will not be imposed if they have the purpose or effect of being punitive or disciplinary.

The Director of Equal Opportunity will maintain on-going contact with Parties and witnesses who have requested Supportive Measures. The Director of Equal Opportunity retains the discretion to initiate and/or modify any Supportive Measures based on all available information. A Party may challenge Supportive Measures, or failure to impose Supportive Measures or take other actions, by contacting the Director of Equal Opportunity to address any concerns. The CORE Team will have ultimate responsibility over the determination of what measures will be put in place.

The College will not disclose information about any Supportive Measures to persons other than the person to whom they apply, including informing any Party of Supportive Measures provided to another Party, unless necessary to provide the Supportive Measure or restore or preserve a Party's access to the College's education programs or activities.

## C. Opportunity to Change or Challenge Supportive Measures

A Reporting Party or Respondent may contact the Director of Equal Opportunity to seek modification or termination of Supportive Measures if circumstances warrant change. If modification or termination of Supportive Measures is not made upon request, the Reporting Party or the Respondent may request the Director of Equal Opportunity to assign an impartial Employee to review their request to modify or reverse the College's decision to provide, deny, modify, or terminate any or all Supportive Measures applicable to them. Upon receipt of such

request by either Party, the Director of Equal Opportunity will designate an impartial Employee to decide whether to grant the modification or reversal request. The impartial Employee will not be the same Employee who made the challenged decision and will be an Employee who has the authority to modify or reverse the decision. The decision will be modified or reversed if the impartial Employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with this Policy.

## D. Measures for avoiding contact with other involved Parties

1. **St. Olaf Limited-Contact Directives.** On a small campus like St. Olaf, it is not feasible to expect that certain community members can avoid any and all contact with one another; however, it is possible to impose restrictions that ensure that intentional contact will not occur, and that individuals will immediately discontinue any inadvertent contact that may occur. A limited-contact directive is a College-issued order that prohibits one or both Parties from intentionally communicating with or contacting another (either directly or indirectly). This directive further orders that if any contact is inadvertently made, the individual(s) subject to the directive will take immediate action to discontinue contact with the other individual. To request a limited-contact directive from the College, individuals should contact the Director of Equal Opportunity.
  
2. **Law Enforcement Order for Protection/Harassment Restraining Order.** Harassment restraining orders and orders for protection are legal orders issued by a state court which forbid someone from harassing and/or making contact with another individual. A harassment restraining order is a civil court order issued against an alleged harasser, regardless of the relationship between the alleged harasser and the alleged victim, which orders the harasser to stop harassing the victim and/or to have no contact with the victim. An order for protection is a civil court order that protects one family or household member from domestic abuse by another family or household member.

The College does not issue harassment restraining orders or orders for protection, but one can be obtained through making an application to the Rice County District Court. Paperwork to petition the court for an order for protection or harassment restraining order is available from the Public Safety Office or the Northfield Police Department. These forms may be submitted to the Court Administrator in the Rice County Courthouse, 218 3rd Street NW, Faribault, MN 55021 during business hours. Free assistance filling out these forms is available by contacting the HOPE Center at [507-332-0882](tel:507-332-0882) (business line) or at [800-607-2330](tel:800-607-2330) (24/7 SafeLine) to get in touch

with a legal advocate.

An order for protection and/or harassment restraining order can be enforced by contacting local law enforcement. An individual who obtains an order for protection and/or harassment restraining order is encouraged to forward a copy of the order to the Director of Equal Opportunity. 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.

#### i. Possible Alerts to the St. Olaf Campus

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](tel: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; coaches of athletic teams; members of the Public Safety Department; members of the Dean of Students Office; members working for Residence Life; and other community members who have 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 and/or text message 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 the College's campus 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 and other reportable offences under the Clery Act include murder, sexual assault, robbery, burglary, hate crimes, aggravated assault and hazing.

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. Individuals may contact Public Safety (507-786-3666) during normal business hours to review the daily crime log.

# I. Instruction on the Importance of Preserving Evidence

Regardless of whether a Reporting Party decides to file a Formal Complaint, they will be notified of the importance of preserving evidence as may be necessary to aid in a future proceeding such as if the Reporting Party decides to initiate a Complaint Resolution Process or a criminal Investigation, or the Reporting Party seeks to obtain a protective order.

## I. Discuss Forensic Medical Examination with Individuals Reporting Sexual Assault

For their health and safety, to preserve their options and for other reasons, victims of sexual assault are strongly encouraged to immediately obtain medical attention and a medical forensic examination. A medical forensic examination is an exam performed by a specially-trained forensic nurse, called a Sexual Assault Nurse Examiner (or “SANE”). SANEs are contracted to work with physicians in the Emergency Department at the Northfield Hospital. Medical forensic examinations are available to anyone who is a victim of sexual assault regardless of gender or gender identity. Medical forensic examinations are conducted up to 240 hours (10 days) after the occurrence of a sexual assault; however, there may be circumstances that warrant an examination even after that period of time has expired.

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

Evidence and other documentation recovered from a medical forensic exam may be used to support a Report under this Policy, subject to the permission of the Reporting Party, or a police Report/criminal complaint; however, having a medical forensic exam performed does not mean that the Reporting Party must Report the incident to either the St. Olaf Director of Equal Opportunity or other member of the Equal Opportunity Team, or to any law enforcement agency. That decision is entirely up to the Reporting Party.

Even if the Reporting Party is not presently considering initiating an Investigation with either the College or the police, obtaining an examination may ensure that important evidence is not lost and may therefore be useful in the future if the Reporting Party later decides to initiate the College’s Complaint Resolution Process or file a police Report. Evidence recovered from a medical forensic exam is not tested unless a Reporting Party Reports to law enforcement. If a Reporting Party chooses not to Report their experience to law enforcement after receiving a medical forensic exam, the evidence collected during the exam will be stored at the Minnesota Bureau of Apprehension for at least 30 months.

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

#### 1. Possible Emergency Removal of a Student

Regardless of whether a Formal Complaint is filed, the College retains the right to remove a Student Respondent from the College's education program or activity on an emergency basis. Before doing so, the College will perform an individualized safety and risk analysis, evaluating whether an imminent and serious threat to the physical health or safety of a Reporting Party, any Students, Employees, or other individual arising from the allegations of Sexual Harassment exists that justifies removal. The College will provide the Respondent with an opportunity to challenge the decision immediately following the removal.

#### 1. Possible Administrative Leave of an Employee

The College may place an Employee or Student employee on administrative leave from employment responsibilities during the pendency of a Complaint Resolution Process.

#### 1. The College's Commitment to Privacy When Responding to Reports

The College will respect and safeguard the privacy of individuals who Report Sexual Harassment, and the privacy of other individuals involved in the process. Consistent with the College's need to carefully assess allegations of Sexual Harassment, 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 Complaint Resolution Process, information will also be shared as is required by law and as is deemed necessary for conducting a fair, impartial and thorough Complaint Resolution Process and/or Informal Resolution Process.

## VII. SUMMARY OF THE COMPLAINT RESOLUTION PROCESSES

In furtherance of St. Olaf's commitment to providing a safe and non-discriminatory environment for all students, staff, faculty and other members of our campus community, this Complaint Resolution Process is available when a Reporting Party provides a Formal Complaint requesting the College to initiate an Investigation into allegations of Sexual Harassment. Upon receipt of a Formal Complaint from a Reporting Party, the College will issue a Notice of Allegations to the Parties involved. After issuing a Notice of Allegations, and providing the

Parties a reasonable opportunity to prepare in advance of any meeting to discuss the allegations, the College will commence an Investigation into the allegations raised in the Formal Complaint. The goal of the Investigation and Hearing is to determine whether it is more likely than not that the Respondent engaged in Sexual Harassment. The Respondent is presumed not responsible for violating this Policy and the burden of proof and the burden of gathering evidence sufficient to reach a determination is on the College.

#### 1. Informal Resolution

The Complaint Resolution Process includes the opportunity for the Parties to participate in mediation to attempt to reach a mutually agreeable resolution to the allegations raised in the Formal Complaint. This optional part of the Complaint Resolution Process is called the Informal Resolution Process. The Informal Resolution Process is used with the Reporting Party and Respondent each agree to attempt to mediate a resolution, and involves the voluntary crafting of an agreement between the Parties, which the College must also approve, designed to resolve the Formal Complaint. Pursuing the Informal Resolution Process does not require the Parties to ever be in the same room with each other or to speak to one another directly. While the Informal Resolution Process normally occurs prior to commencing an Investigation, the College reserves the right to initiate it at any point prior to a final determination of the Formal Complaint. The Informal Resolution Process is completely voluntary to all Parties involved, and once commenced, any Party or the College can decide to withdraw from participation at which point the Investigation and Hearing Process will resume. The Informal Resolution Process is described in more detail below in Section VII.

#### 1. Investigation Phase

If any Party opts not to participate in the Informal Resolution process, or the Informal Resolution Process fails to result in a mutually agreeable resolution to the Formal Complaint, the College will proceed with the Investigation and Hearing Process. As its name indicates, there are two phases to this process. The first stage is an Investigation aimed at gathering all relevant evidence and summarizing it in an Investigation Report prepared by a trained Investigator retained by the College. During this phase the Parties have the same opportunity to participate in the Investigation by meeting with the Investigator, providing whatever evidence the Party believes is relevant, identifying witnesses that should also be interviewed, and suggesting questions that should be asked of other witnesses and Parties. Once the evidence has been gathered by the Investigator, the Parties have the same opportunity to access, review and comment on the evidence that will be summarized by the Investigator in the Investigation Report. This process described in more detail below in Section VIII B Phase 4.

#### 1. Hearing Phase

After the Investigator issues the Investigation Report, the Investigation phase is complete and the process moves into the Hearing phase. No sooner than 10 days after the issuance of the Investigation Report, a Hearing Panel comprised of trained personnel will convene a Hearing at which time the Parties will be provided an equal opportunity to address the evidence with the Hearing Panel, including the opportunity to, through their Advisor, ask questions of any other Party or witness. If a Party does not have an Advisor, the College will provide a representative to ask the Party's questions on the Party's behalf.

After providing the Parties an opportunity to participate in the Hearing, the Hearing Panel will then meet to consider all of the evidence presented during the Investigation and Hearing process. Based on the evidence presented during the Investigation and Hearing, the Hearing Panel will issue a Notice of Decision indicating whether it is more likely than not that the Respondent violated this policy. If such a determination is made, the Hearing Panel will also determine Disciplinary Sanctions and Remedies designed to restore or preserve the Reporting Party's equal access to the College's education program or activity, and any sanctions the Hearing Panel deems appropriate. This process described in more detail below in Section VIII B Phases 5 and 6.

#### I. Appeal Phase

Any Party who believes the Hearing Panel created an error in its decision may file a timely appeal of the decision to an Appeal Adjudicator. The Appeal Adjudicator will be an individual who played no prior role in the matter and who is free of any bias or conflict of interest. All Parties will be provided notice of an appeal and will have an opportunity to submit a position statement relating to the appeal. The Appeal Adjudicator will issue a determination of the appeal which may affirm the decision of the Hearing Panel, overturn the decision, and/or direct the Hearing Panel to conduct further proceedings to resolve a concern raised in an appeal. If no Party files an appeal of the Hearing Panel's decision, or if the Appeal Adjudicator affirms the Hearing Panel's decision, the College's process will end and any sanctions imposed by the Hearing Panel will immediately go into effect. Once the time to appeal has expired or an appeal is decided, no Party will have an ability to seek further recourse from the College relating to the allegations raised in the Formal Complaint. This process described in more detail below in Section VIII B Phase 8

## VIII. INFORMAL RESOLUTION PROCESS

### I. Overview

At any time prior to reaching a determination regarding responsibility for Sexual Harassment through the Complaint Resolution Process, the Parties may choose to enter into an Informal Resolution Process. The College encourages the use of the Informal Resolution Process,

recognizing that Parties' participation is entirely voluntary and will only be implemented with their full written consent in accordance with the requirements of this section.

The College, through the CORE Team has the discretion to determine whether it is appropriate to permit an Informal Resolution Process to proceed in each situation and may decline to offer the Informal Resolution Process despite one or more of the Parties' wishes. The College may decline to offer the Informal Resolution Process if, for instance, it determines that the alleged conduct would present a future risk of harm to others.

When a Report or Formal Complaint of Sexual Harassment is resolved through an Informal Resolution Process, the Director of Equal Opportunity maintains authority to take steps, as appropriate, to ensure that Sexual Harassment does not continue or recur.

#### 1. Consent by the Parties / College Approval

All Parties must provide voluntary, written consent to participate in the Informal Resolution Process. The College will not require Parties to participate in an Informal Resolution Process, or require a Party to waive the right to Investigation and adjudication of a Formal Complaint as a condition of enrollment, continued enrollment, employment, continued employment, or provision of any other right.

The College may decline a request for Informal Resolution in any particular case and may terminate an ongoing Informal Resolution Process at any time. The agreement to participate in Informal Resolution and any resolution reached is subject to the agreement of the Director of Equal Opportunity, the Reporting Party and the Respondent.

#### 1. Timeframe of the Informal Resolution Process

Generally, an Informal Resolution Process will be completed within 30 calendar days from the Parties' written agreement to participate in the Informal Resolution Process. This timeline may be extended if necessary, including a temporary delay or the limited extension of time for good cause. The Parties will be notified simultaneously in writing of any extension of the timeframe and the reasons for such extension.

#### 1. Notice to the Parties

Before initiating an Informal Resolution Process, the College will provide written notice to the Parties that explains the following:

- The allegations of Sexual Harassment;
- The requirements of the Informal Resolution Process;
- The right of any Party to withdraw from the Informal Resolution Process at any time prior to agreeing to a resolution;
- The right to resume with the Complaint Resolution Process if an agreement is not reached;

- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution Process will conclude the matter and preclude either Party from initiating or resuming a Formal Complaint arising from the same allegations;
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notice that an Informal Resolution agreement is binding only on the Parties;
- What information the College will maintain from the Informal Resolution Process and whether and how the College could disclose such information for use in the Complaint Resolution Process if such a Process is initiated or resumed.

#### 1. Informal Resolution Process Facilitator

The facilitator for the Informal Resolution Process will be a trained person designated by the Director of Equal Opportunity. A facilitator designated by the Director of Equal Opportunity may be an Employee or may be an external consultant. The facilitator will not be the same person as the Investigator or a Hearing Panel Member or Appeal Adjudicator in the Complaint Resolution Process.

The facilitator for an Informal Resolution Process will not have a conflict of interest or bias for or against Reporting Parties or Respondents generally or an individual Reporting Party or Respondent. The facilitator will be trained consistent with legal requirements.

#### 1. Right to an Advisor

Each Party has the right to choose and consult with an Advisor during an Informal Resolution Process. The Advisor may be any person, including an attorney, who is not otherwise a Party to the Reported incident.

#### 1. Description of Process

The facilitator, in consultation with the Director of Equal Opportunity, will work with the Parties to determine a structure for the Informal Resolution Process that all Parties agree to. Working with the facilitator, the Parties generally have latitude to determine the structure of the Process. In most cases the process will entail the facilitator attempting to mediate a resolution by meeting separately with the Parties.

#### 1. Potential Terms and Outcomes of an Informal Resolution Process

The Parties have the right to withdraw from an Informal Resolution Process at any time up until an agreement is reached and signed by the Parties. The College may also declare an impasse or discontinue the Process for any reason. If the Process concludes without a resolution reached,

the Reporting Party will determine whether to move forward with a Formal Complaint, and may initiate a Complaint Resolution Process, or continue with an existing Complaint Resolution Process.

Once the Parties have arrived at an agreement and finalized an agreement, the Process is concluded, and the Parties are precluded from initiating or continuing with a Complaint Resolution Process arising from the same allegations.

The Parties generally have latitude to determine the terms and potential outcomes of an Informal Resolution agreement. The facilitator can assist the Parties in developing possible terms and outcomes. Potential terms and outcomes may include, but are not limited to:

- Restrictions on contact between the Parties;
- Restrictions on participation in College activities or programs;
- Priority in residence hall selection and/or class registration, to minimize interactions between the Parties in residential and academic settings;
- Restrictions on physical presence in certain areas;
- Required attendance at educational programs;
- Required assessment and/or counseling;
- Leave of absence from school or employment;
- Resignation of employment;
- Non-disparagement;
- Reimbursement of expenses; and
- Agreement not to sue.

At the conclusion of an Informal Resolution Process, the College will prepare and the Parties will sign an Informal Resolution agreement.

The Director of Equal Opportunity or their designee is responsible for ensuring that the terms of an Informal Resolution agreement are adhered to.

The College reserves the right to take other appropriate prompt and effective steps to end any Sexual Harassment and prevent its recurrence even if the matter is resolved by the Parties through an Informal Resolution Process.

Records about Informal Resolution Processes will be maintained by the Director of Equal Opportunity, consistent with this Policy's recordkeeping provision, and will only be shared with College Employees who have a need to know. Records from an Informal Resolution Process, including statements made by the Parties during the process, will not be shared in any subsequent Complaint Resolution Process.

## IX. COMPLAINT RESOLUTION PROCESS

The College has adopted this Complaint Resolution Process to provide for a prompt and equitable resolution of all Complaints of Sexual Harassment made by Students, Employees, or other individuals who are participating or attempting to participate in the College's education

programs and activities. In certain circumstances a Complaint Resolution Process may also be initiated by the Director of Equal Opportunity.

## A. General Information Applicable to All Sexual Harassment Complaints

1. **Reservation of flexibility.** The procedures set forth in the Complaint Resolution Process 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 legally permissible, and where it is deemed impractical or impossible to follow the procedures provided in this Complaint Resolution Process, 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. Unwelcome conduct that does not rise to a level of being severe, pervasive, and objectively offensive may be referred to the appropriate College official for review under the College's [Code of Student Conduct](https://wp.stolaf.edu/thebook/code-of-conduct/) (for Students), [Staff Handbook](https://wp.stolaf.edu/hr?gfid=846) (for staff), or [Faculty Manual](https://wp.stolaf.edu/doc/faculty-manual/) (for faculty).

When the College receives a Report involving allegations of Sexual Harassment by a third Party (an individual who is not a Student, faculty, or staff member) that is outside the scope of this Complaint Resolution Process, the CORE Team may exercise discretion to determine an appropriate resolution process based on the facts and circumstances of the matter. The Director of Equal Opportunity 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 Disciplinary Sanctions may include but are not limited to: conditions upon presence on campus or at College events, no-trespass and limited-contact directives, or other steps deemed necessary to protect the Reporting Party and the campus community. Any Party with concerns about the process or outcome should consult with the Director of Equal Opportunity.

2. **Honoring Requests Not to Initiate the Complaint Resolution Process.** The College will honor an individual's preferences about whether to proceed with the Complaint Resolution Process, and will only take additional action in extremely rare circumstances when the College believes further action is

legally required. The CORE Team will make the assessment of whether further action is necessary.

3. **Role of the Director of Equal Opportunity.** The Director of Equal Opportunity is a resource for all Parties participating in the Complaint Resolution Process to answer questions or address concerns. The Director of Equal Opportunity is available to explain the Informal Resolution Process and the Complaint Resolution Process. The Director of Equal Opportunity can assist Parties with changes to existing Supportive Measures or with addressing concerns about the Complaint Resolution Process. The Director of Equal Opportunity will also notify the Parties of the date, time, location, participants, and purpose of all investigative interviews at which a Party will be requested to attend with notice to provide the Party sufficient time to prepare to participate before attending the interview. The Parties will also receive notice of all meetings or proceedings relating to the Complaint Resolution Process at which the other Party or Parties will be in attendance, including any meetings with the Investigator or other College officials. During the Complaint Resolution Process, the Parties can expect to receive updates from the Director of Equal Opportunity on at least a weekly basis. When matters are brought to the Director of Equal Opportunity that fall outside the scope of this Policy, the Director of Equal Opportunity may refer the matter to other institutional representatives.
4. **Appointment of the Investigator.** Whenever a Complaint Resolution Process commences, the Director of Equal Opportunity will identify an Investigator to conduct a prompt, thorough, fair, and impartial Investigation. In most instances, the College will retain an external Investigator to conduct the Investigation. The Investigator has broad discretion to determine the Investigation format. The Investigator is responsible for maintaining an orderly, fair, and respectful Investigation process and has broad authority to respond to disruptive or harassing behaviors, including adjourning an investigative meeting or excluding the offending person. All Investigators will receive annual training on issues related to sexual and gender-based harassment, sexual assault, dating violence, domestic violence, and stalking, and on how to conduct an Investigation that is fair and impartial, provides Parties with notice and a meaningful opportunity to be heard, and protects the safety of all Parties and the College community while promoting accountability. Investigators will also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

**5. Training of Individuals Involved in Administering the Complaint**

**Resolution Process.** All Investigators, adjudicators, facilitators, the Director of Equal Opportunity, and other persons responsible for implementing the College's Complaint Resolution Process will be trained annually, as required by law. Training will include methods for promoting fair and impartial Complaint Resolution Process and Informal Resolution Process. All materials used to train personnel are available upon request.

**6. Avoiding Bias and Conflict of Interest.** The College requires all personnel acting for the College under the Informal Resolution Process or Complaint Resolution Process to be free of any conflict of interest or bias for or against Reporting Parties or Respondents generally or any individual Reporting Party or Respondent in the matter to which they are assigned.

If a Reporting Party or Respondent has any concern that an individual acting for the College under the Complaint Resolution Process has a conflict of interest, such concern should be Reported to the Director of Equal Opportunity no later than either two (2) business days after receiving the notice of the identity of the individual(s) assigned to the matter; or, in the case of a conflict of interest that arises after an individual is assigned to the matter, within two (2) business days after a conflict of interest arises. The CORE Team will review the concerns and take appropriate steps to ensure that no conflicts of interest exist on the part of anyone involved in mediating, investigating, or adjudicating a Formal Complaint under the Complaint Resolution Process.

If the Director of Equal Opportunity has a conflict of interest with respect to the Complaint Resolution Process, the College's President or the President's designee shall appoint an alternate person to oversee the administration of 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 Formal Complaint, including, but not limited to, appointment of alternate individuals to oversee the Complaint Resolution Process.

**7. Standard of Proof.** In implementing these Complaint Resolution Processes, the College will use the preponderance of evidence standard of proof to determine whether Sexual Harassment occurred. Applying this standard, the Hearing Panel will evaluate relevant and not otherwise impermissible evidence for its persuasiveness to determine whether it is more likely than not that Sexual Harassment occurred. If the Hearing Panel is not persuaded that that it is more likely than not that Sexual Harassment occurred, the Hearing Panel will issue a determination that the Respondent is not responsible for violating the Policy.

8. **Burden of Proof.** The burden under the Complaint Resolution Process is on the College—not the Parties—to conduct a sufficient Investigation in accordance with this Complaint Resolution Process that gathers sufficient evidence to determine whether Sexual Harassment occurred.
9. **Investigation of other policy violations.** If a Report of Sexual Harassment implicates other allegations of violations of College policy, the CORE Team will evaluate the allegations to determine whether the Investigation of Sexual Harassment and the other alleged misconduct may be appropriately investigated together under this Complaint Resolution Process. Where the CORE team determines that a single Investigation is appropriate, the determination of responsibility for the violation of other policies will be evaluated under the applicable policy, but the Investigation and Hearing will be conducted in accordance with these Procedures.
10. **Meeting with the Investigator.** The Investigator will seek to meet with all Parties during the Investigation to ask questions about the allegations and to provide the Parties an opportunity to address the allegations raised in the Formal Complaint. Parties will be given adequate time to prepare to participate before an interview will be conducted. In addition to answering the Investigator's questions, the Parties should be prepared to provide the Investigator any evidence relevant to the Investigation, the names of witnesses whom the Party believes should be interviewed, and questions the Party believes should be asked of another Party or witness.
11. **Commitment to fair treatment of all Parties.** The College seeks to ensure that all Reporting Parties and Respondents involved in the Complaint Resolution Process are treated with dignity and respect. The College strives to provide a process that is prompt, fair and impartial. Reporting Parties involved in this process should never be treated in a manner that suggests that they were at fault for, or that they should have done something differently to avoid Sexual Harassment. Respondents are presumed not responsible for the alleged Sexual Harassment until a determination regarding responsibility is made at the conclusion of the Complaint Resolution Process. If Parties have any concerns about the manner in which they are being treated throughout the Complaint Resolution Process, they should immediately report such concerns to the Director of Equal Opportunity.

Parties can expect the following:

- Prompt and equitable resolution of allegations of Sexual Harassment in adherence to the process and timeframes provided in the Complaint Resolution Process;
  - Respect of their privacy in accordance with the Policy and legal requirements;
  - Freedom from Retaliation for making a good faith Report of Sexual Harassment, or for participating in the Complaint Resolution Process;
  - The opportunity to share concerns or issues about proceedings under the Complaint Resolution Process with the Director of Equal Opportunity;
  - The opportunity to select an Advisor of choice, who may be but is not required to be an attorney, including the right to have that Advisor attend any meeting or proceeding under the Complaint Resolution Processes;
  - The opportunity to challenge the Investigator, Hearing Panel, Appeal Adjudicator, or Informal Resolution Process facilitator, for bias or conflict of interest;
  - The opportunity to provide relevant evidence and identify witnesses during an Investigation;
  - The opportunity to have timely and equal access to relevant evidence gathered during the Investigation under the Complaint Resolution Process;
  - The right to a Hearing at which the Parties may present evidence, including testimony, and may through their Advisor, ask questions of witnesses and other Parties;
  - Reasonable time to prepare in advance of any interview or other proceeding under the Complaint Resolution Processes;
  - Written notice of any extension of time frames for good cause;
  - Prompt and simultaneous written notice of all the decisions relating to the Formal Complaint including the Hearing Panel's determination and the Appeal Adjudicator's decision of any appeal; and
  - The right to timely appeal the decision of the Hearing Panel.
12. **Evaluation of Evidence.** During the Complaint Resolution Process, the College will perform an objective evaluation of all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence.
13. **Inadmissible Evidence.** The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a Confidential Employee, unless the person to whom

the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;

- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless the College obtains that Party's or witness's voluntary, written consent for use in its Complaint Resolution Process; and
- Evidence that relates to the Reporting Party's sexual interests or prior sexual conduct, unless evidence about the Reporting Party's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Reporting Party's prior sexual conduct with the Respondent that is offered to prove consent to the alleged Sexual Harassment. The fact of prior consensual sexual conduct between the Reporting Party and Respondent does not by itself demonstrate or imply the Reporting Party's consent to the alleged Sexual Harassment or preclude determination that Sexual Harassment occurred.

14. **Credibility Determinations.** The Hearing Panel will make credibility determinations based on the evidence obtained through Investigation. A person's status as a Reporting Party, Respondent, or witness will not impact credibility decisions.
15. **Effect of non-participation and silence.** A Party to the Complaint Resolution Process may at any time decline to provide information or otherwise participate in the Complaint Resolution Process. If a Party opts not to participate in the Complaint Resolution Process, the College will proceed with the process and make a determination based upon the information available. Silence in response to an allegation will not be viewed as an admission of the allegation, but may leave allegations unrefuted. If a Party or witness refuses to answer any question posed during the Hearing phase of the Complaint Resolution Process, this may impact the Hearing Panel's review of the evidence and make it more difficult to give credibility to previous statements provided by the Party or witness.
16. **Right to an Advisor of choice.** The College will provide the Parties with the same opportunities to be accompanied by an Advisor of their choice at any meeting or proceeding that occurs under an Informal Resolution Process or Complaint Resolution Process. An Advisor may be, but is not required to be, an attorney. The role of the Advisor is to provide a Party with advice and

support. The College will not limit the choice or presence of the Advisor for either Party in any meeting or proceeding. If an Advisor learns of confidential information in the course of their role, they may not disclose such information other than for the purpose of serving as a Party's Advisor.

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

- The purpose of the Advisor is to provide advice and support to a Party in the Informal Resolution Process and/or Complaint Resolution Process.
- During the Investigation phase of the Complaint Resolution Process, Advisors may confer with their advisee, but they may not speak on behalf of their advisee, advocate for their advisee, or otherwise actively participate in the process.
- During the Hearing phase of the Complaint Resolution Process, Advisors will ask questions to the other Parties and witnesses providing testimony. If a Party does not have an Advisor present at the live Hearing, the College will provide a representative to that Party to ask questions on the Party's behalf.
- The Advisor may accompany their advisee to all meetings relating to the Informal Resolution Process or Complaint Resolution Process.
- While Advisors are welcome to assist a Party in drafting communications to the Director of Equal Opportunity or others involved in the Informal Resolution Process or Complaint Resolution Process, the Advisor should not communicate directly with the Director of Equal Opportunity or other College representatives engaged in administering the Informal Resolution Process or Complaint Resolution Process.
- Advisors may not interrupt or otherwise unduly delay the Informal Resolution Process or Complaint Resolution Process. The College will strive to accommodate Advisors' schedules; however, if an Advisor is not reasonably available to participate in the Informal Resolution Process or Complaint Resolution Process, the College reserves the right to move forward with its process in order to ensure its prompt completion.
- With the permission of their advisee, Advisors will be provided access to the same Investigation materials and evidence that is available to their advisee. This information frequently includes Student education records and other confidential and highly sensitive information. Advisors' access to such information is conditioned upon their agreement to maintain the confidentiality of these records except when disclosure is legally authorized. Advisors may only discuss information disclosed through the Investigation process with their advisee. For example, if a Party's Advisor is an attorney, the

attorney may not share any information obtained during the Investigation process with other attorneys or staff associated with the attorney.

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 an Informal Resolution Process or Complaint Resolution Process.

17. **Additional Support Representative.** Upon a showing of good cause, a Party may be accompanied with an additional support representative to meetings with the Director of Equal Opportunity, the Investigator, or other proceedings under the Complaint Resolution Process. Good cause will exist upon a showing of special circumstances warranting the participation of the additional support representative. Examples of good cause include, a Party who has a disability who needs additional support as an accommodation, or a Party for whom English is not their primary language who needs the support of an interpreter.
18. **Timelines.** The College will strive to promptly complete the Informal Resolution Process and/or Complaint Resolution Process. A general timeframe for each step in the process is provided in the Informal Resolution Process and for each phase of the applicable Complaint Resolution Process. These timeframes may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the Investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal Investigation, to accommodate the availability of witnesses, Party or a Party's Advisor, to accommodate a Party with a disability, to account for College breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the Parties, or for other legitimate reasons. In cases where extensions may be necessary, the Director of Equal Opportunity will notify the Parties. Extensions will be no longer than necessary. The Reporting Party and Respondent will receive written notice of any extensions that will include the reasons for the delay and the anticipated length of the delay.
19. **Privacy.** The College will take reasonable steps to protect the privacy of the Parties and witnesses during the Complaint Resolution Process. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking with witnesses; consulting with their family members, Confidential Resources, or Advisor; or otherwise preparing for or

participating in the Complaint Resolution Process. In speaking with witnesses, the Parties are prohibited from engaging in Retaliation. The obtained solely through the College will also take reasonable steps to prevent and address any unauthorized disclosure of information and evidence Complaint Resolution Process.

20. **Waiver of Drug and Alcohol Violations.** When a St. Olaf Student, Employee or guest Reports Sexual Harassment, the College's main priority is to protect the safety and well-being of the members of our community. To do so, we need individuals who Report Sexual Harassment and those who participate in the Complaint Resolution Process to be honest and candid about the circumstance surrounding the Report. We do not want concerns about the College's Student Code of Conduct policies relating use or possession of alcohol and illicit drugs to cause individuals to either avoid Reporting or provide incomplete or inaccurate information during an Investigation. Therefore, individuals who Report Sexual Harassment, and individuals who participate as a Party or witness in an Investigation into allegations of Sexual Harassment will not be disciplined by the College for any violation of its Student Code of Conduct Policy on Alcohol and Illicit Drugs.
21. **Expert Opinions.** Medical, forensic, technological or other opinions of experts may be sought by the Investigator or proffered by any of the Parties. When expert opinion information is directly related to the allegations raised in the Complaint, the Parties will be apprised of the information and provided an opportunity to submit additional expert information.
22. **Responsibility to Act in Good Faith and Provide Truthful Information.** Parties and witnesses who participate in the Complaint Resolution Process are expected to act in good faith and provide truthful information in connection with the Investigation and adjudication of the Formal Complaint. Individuals who opt to participate in the Complaint Resolution Process are expected to act in good faith and provide truthful and accurate information during the course of the Complaint Resolution Process.
23. **Prohibition of retaliation.** St. Olaf Colleges strictly prohibits retaliation against individuals who report Sexual Harassment or against individuals who assist in or participate in the Complaint Resolution Process. Encouraging or assisting others to engage in retaliation is also prohibited. The College prohibits any form of intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by this policy, or because the individual has made a report or

complaint, testified, assisted, or participated or refused to participate in any manner in an Investigation, proceeding, or Hearing under this policy. Complaints alleging retaliation may be reported to the Director of Equal Opportunity and will be addressed under applicable disciplinary procedures.

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 the Complaint Resolution Process, their Advisor, 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. Complaint Resolution Process for Sexual Harassment Formal Complaints

St. Olaf has adopted this Complaint Resolution Process to provide for the prompt and equitable resolution of Sexual Harassment Complaints made by Students, Employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Director of Equal Opportunity. This Complaint Resolution Process will be used to resolve all Sexual Harassment Formal Complaints in which a Student is either a Reporting Party, a Respondent or both.

### **Phase 1 – Initiation of Formal Complaint**

The following people have a right to make a Formal Complaint requesting the College investigate and make a determination about alleged Sexual Harassment involving a Student:

- A Reporting Party, which includes a St. Olaf Student or Employee who is alleged to have been subjected to conduct that could constitute Sexual Harassment; or
- A person other than a Student or Employee who is alleged to have been subjected to Sexual Harassment at a time when that individual was

participating or attempting to participate in the College's education program or activity; or

- The Director of Equal Opportunity if it is determined that a Formal Complaint is warranted following the analysis outlined below.

If a Formal Complaint is not initiated or is withdrawn, and if the Informal Resolution Process is not initiated or is terminated for any reason, the Director of Equal Opportunity may determine whether to initiate a Formal Complaint of Sexual Harassment after considering various factors including the following:

- Whether the Reporting Party requested not to proceed with initiating a Formal Complaint;
- Reporting Party's reasonable safety concerns regarding an initiation of a Formal Complaint;
- The risk that additional acts of Sexual Harassment may occur if a Formal Complaint is not initiated;
- The severity of the alleged Sexual Harassment, including whether the Sexual Harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Sexual Harassment and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an Employee of the institution;
- The scope of the alleged Sexual Harassment, including information suggesting a pattern, ongoing Sexual Harassment alleged to have impacted multiple individuals;
- The availability of evidence to assist a Hearing Panel in determining whether Sexual Harassment occurred; and
- Whether the institution could end the alleged Sexual Harassment and prevent its recurrence without initiating its Complaint Resolution Process.

The Director of Equal Opportunity may initiate a Formal Complaint if, after considering these and other relevant factors, it is determined that the conduct alleged presents an imminent and serious threat to the health or safety of the Reporting Party or other person, or that the alleged conduct prevents the institution from ensuring equal access to its education program or activity.

If the Director of Equal Opportunity decides to initiate a Formal Complaint, the institution must ensure that the Reporting Party is notified prior to doing so, and that appropriate measures are taken to address any reasonable concerns about the Reporting Party's safety or the safety of others, including by providing Supportive Measures.

St. Olaf may consolidate Formal Complaints of Sexual Harassment allegations against more than one Respondent, or by more than one Reporting Party against one or more Respondent, or by one Party against the other Party, where many of the allegations of Sexual Harassment arise

out of the same facts or circumstances

Reporting Parties are encouraged to Report incidents of Sexual Harassment as soon as possible; however, there is no deadline for initiating a Formal Complaint.

## Phase 2 – Notice of Allegations

Upon receipt of a Formal Complaint and initiation of the Complaint Resolution Process, the Director of Equal Opportunity will provide a written Notice of Allegations that will apprise the Parties of the following:

- A link to a copy of the Policy and the Complaint Resolution Process and Informal Resolution Process;
- A summary of the information available to the College at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sexual Harassment, and the date(s) and location(s) of the alleged incident(s);
- The identity of the Investigator and Hearing Panel;
- Information on how the Parties may challenge participation by the Investigator or the Hearing Panel on the basis of bias or a conflict of interest;
- The Respondent is presumed not responsible for the alleged Sexual Harassment until a decision is made during the Hearing Phase;
- Prior to such a determination, the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Investigator;
- Assurance that a Party will not be required or permitted to use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege;
- The Parties may have an Advisor of their choice who may be, but is not required to be, an attorney who may inspect and review evidence during the Complaint Resolution Process, and who may ask questions of Parties and witnesses during the Hearing that occurs after the Investigation;
- An explanation of the College's policy prohibiting retaliation against any Party, witness or other individual who reports Sexual Harassment or who participates in the Complaint Resolution Process;
- Instructions to the Parties to preserve any potentially relevant evidence in any format;
- Notice that knowingly making false statements or knowingly submitting false information during a Complaint Resolution Process is a violation of College policy. For students, the disciplinary process will be addressed using [Article VI of the Student Code of Conduct \(https://wp.stolaf.edu/thebook/code-of-](https://wp.stolaf.edu/thebook/code-of-)

conduct-2/). For staff the matter will be referred to Human Resources and for faculty the matter will be referred to the Provost's office; and

- That the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and any Investigation Report that the Investigator may prepare as part of the Investigation.

If, in the course of an Investigation, the Director of Equal Opportunity learns of additional allegations of Sexual Harassment by the Respondent toward the Reporting Party that are not included in the Notice of Allegations previously provided or that are included in a Formal Complaint that is consolidated, the Director of Equal Opportunity will notify the Parties of the additional allegations in an amended Notice of Allegations.

If the Director of Equal Opportunity and CORE Team have reasonable concerns for the safety of any person as a result of providing the Notice of Allegations, the Director of Equal Opportunity may reasonably delay providing this Notice of Allegations in order to address the safety concern appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on speculation or stereotypes.

The timeframe for forwarding the Parties a copy of the Notice of Allegations will be within five (5) business days following the Director of Equal Opportunity's receipt of a Formal Complaint.

### **Phase 3 – Complaint Dismissal Assessment**

Within 10 business days of receipt of a Formal Complaint, the CORE Team will review the Formal Complaint and may dismiss or refer the matter to a different College office if:

- The College is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in a St. Olaf education program or activity and is not employed by the College;
- The Reporting Party notifies the Director of Equal Opportunity in writing of the Reporting Party's voluntary withdrawal of any or all of the allegations in the Formal Complaint, the Director of Equal Opportunity declines to initiate a Formal Complaint, and the CORE Team determines that, without the Reporting Party's withdrawn allegations, the conduct that remains alleged in the Formal Complaint, if any, would not constitute Sexual Harassment even if proven; or
- The CORE Team determines the conduct alleged in the Complaint, even if proven, would not constitute Sexual Harassment.

In addition to the initial Complaint Dismissal Assessment, the CORE Team reserves the right to review a dismissal assessment at any time during the Complaint Resolution Process if circumstances change that may warrant dismissal. For example, if a Reporting Party voluntarily

withdraws allegations, or a Respondent is no longer participating in a program or activity or employed with the College, the CORE Team may, but is not required to, determine that dismissal of the Formal Complaint is appropriate.

If dismissal of a Formal Complaint is based on the Reporting Party's voluntary withdrawal of the Formal Complaint, the Reporting Party must provide the Director of Equal Opportunity notice of the withdrawal of the Formal Complaint in writing.

Before dismissing the Formal Complaint, the Director of Equal Opportunity will make reasonable efforts to clarify the allegations with the Reporting Party. Upon dismissal, the Director of Equal Opportunity will promptly notify the Reporting Party in writing of the basis for the dismissal. If the dismissal occurs before the Respondent has been notified of the allegations, then the written notice of dismissal will only be provided to the Reporting Party. If the dismissal occurs after the Respondent has been notified of the allegations, then the Director of Equal Opportunity will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Reporting Party, or simultaneously if notification is in writing.

The Director of Equal Opportunity will notify the Reporting Party that a dismissal may be appealed and will provide the Reporting Party with an opportunity to appeal the dismissal of a Formal Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, the Director of Equal Opportunity will also notify the Respondent that the dismissal may be appealed.

The determination to dismiss a Formal Complaint may be appealed. The determination not to dismiss a Formal Complaint is not a decision that is subject to appeal. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Director of Equal Opportunity, Investigator, or Hearing Panel had a conflict of interest or bias for or against Reporting Parties or Respondents generally or the individual Reporting Party or Respondent that would change the outcome.

If the dismissal is appealed, the Director of Equal Opportunity will:

- Notify the Parties of any appeal, including notice of the allegations, if a Notice of Allegations was not previously provided to the Parties;
- Include the Notice of Allegations if not previously provided to the Respondent;
- Ensure that the Appeal Adjudicator did not take part in an Investigation of the allegations or dismissal of the Formal Complaint;
- Ensure that the Appeal Adjudicator has received annual training consistent with all legal obligations;

- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the Parties of the result of the appeal and the rationale for the result within 10 business days of receipt of an appeal.

When a Formal Complaint is dismissed, the Director of Equal Opportunity will, at a minimum:

- Offer Supportive Measures to the Reporting Party as appropriate;
- If the Respondent has been notified of the allegations, offer Supportive Measures to the Respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, to ensure that Sexual Harassment does not continue or recur within the College's education program or activity.

## **Phase 4 – Investigation**

The College will conduct an adequate, reliable, and impartial Investigation of the Formal Complaint. The Parties will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. The Investigator will review all evidence gathered through the Investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Each Party will have an equal opportunity to access the evidence that is relevant to the allegations of Sexual Harassment and not otherwise impermissible, including inculpatory or exculpatory evidence whether obtained from a Party or other source. Party and witness interviews will be recorded, and the Parties will have an opportunity to review and respond to the evidence obtained through interviews and from other sources. A Party may respond to the evidence by either providing the Investigator a written response or in a meeting with the Investigator.

Through the course of the Investigation, the Investigator will provide each Party information about the statements and evidence gathered from the other Party or Parties and witnesses, including through access to the recordings of all Party and witness interviews. Access to these recordings will be provided with sufficient time for the Party to have a reasonable opportunity to identify questions the Party would like the Investigator to ask each Party and witness. To afford the Parties an adequate opportunity to respond to evidence it is likely that the Investigator will meet with Parties and witnesses multiple times throughout the course of an Investigation.

Prior to the completion of the Investigation phase, the Director of Equal Opportunity will notify the Parties of the "Close of Evidence" date upon which the Investigation will be deemed completed. This notification will be provided at least 10 calendar days prior to the end of the Investigation in order to provide the Parties sufficient time to submit all relevant and not otherwise impermissible evidence; review and respond to the evidence. If a Party raises an issue

or submits further evidence, this will not extend the 10-day period for review and comment prior to the end of the Investigation phase unless the Investigator determines that further Investigation is needed. If the Investigator determines that additional Investigation is needed, the Parties will be provided an additional 10-day period of time to review and comment on any additional evidence gathered before the Investigation phase closes.

Once the 10-day period has passed and the Investigation phase has ended, the Parties will not be permitted to introduce additional evidence absent extraordinary circumstances where the Director of Equal Opportunity deems it necessary in order for the College to meet its burden of conducting an Investigation that gathers sufficient evidence to determine whether Sexual Harassment occurred.

The evidence made available to the Parties for review and inspection will be made available to the Parties during the Hearing, including for purposes of asking questions of witnesses. The length of time needed to complete an Investigation can vary depending upon various circumstances such as the nature of the allegations; the number of witnesses; the volume and type of evidence to be obtained; and the timing of the Investigation in relation to College events such as exams and breaks. The College will strive to complete the Investigation Phase of the Complaint Resolution Process within 30 calendar days after an Investigation commences. The Investigation may be temporarily suspended if the Parties agree to attempt to resolve the matter through the Informal Resolution Process. If such efforts are unsuccessful because either Party withdraws from the Informal Resolution Process or the College declares an impasse, the Investigation will proceed.

Following the close of evidence and completion of the Investigation, the Investigator will prepare an Investigation Report which fairly summarizes the relevant evidence gathered during the Investigation and which summarizes the contested and uncontested facts relevant to the allegations at issue in the Formal Complaint. The Investigation Report will not include any findings relating to the credibility of any Party or witnesses, and will not include any conclusion by the Investigator as to whether the Investigator believes a preponderance of the evidence supports a finding of responsibility. The Parties and their Advisors will have another 10-day period to review the Investigation Report, in electronic or hard copy format, and submit a response to the Hearing Panel for their review.

## **Phase 5 – The Hearing**

Following the completion of the Investigation phase a Hearing will be scheduled. The Hearing is an opportunity for the Parties to address the Hearing Panel in person and to question the other Party and/or witnesses. It also provides the Hearing Panel an opportunity to obtain information following the Investigation that is necessary to make a determination of whether a Policy violation occurred.

### ***1. The Hearing Panel***

: The Hearing will be conducted by a three-person Hearing Panel. The Hearing Panel will receive annual training regarding the College's definition

of Sexual Harassment, the scope of the College's education programs and activities, how to conduct a Hearing, and how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias. The Hearing Panel will also receive training on the technology to be used at the live Hearing, and on issues of relevance of questions and evidence, including when questions and evidence about the Reporting Party's sexual predisposition or prior sexual behavior are not relevant.

The Hearing Panel will be impartial and free from bias or conflict of interest. If any Hearing Panel member has concerns that they cannot conduct a fair or unbiased review, the Hearing Panel member may report those concerns in advance of the pre-Hearing conference to the Director of Equal Opportunity and a different Hearing Panel member will be assigned. Similarly, a Reporting Party or a Respondent who has concerns that an assigned Hearing Panel member cannot conduct a fair and unbiased Hearing may report those concerns to the Director of Equal Opportunity who will assess the circumstances and whether a different Hearing Panel member should be assigned. The Hearing Panel has broad discretion to determine the Hearing format. The Hearing Panel is responsible for maintaining an orderly, fair, and respectful Hearing and has broad authority to respond to disruptive or harassing behaviors, including adjourning the Hearing or excluding the offending person. The Hearing Panel will also have discretion to call for breaks or recesses as deemed necessary during the Hearing.

The Parties may make requests to the Director of Equal Opportunity related to the format or the nature of their participation in the Hearing. The Director of Equal Opportunity will work with the Hearing Panel to accommodate reasonable requests

**1. *Scheduling***

: The Director of Equal Opportunity will forward a copy of the Investigation Report to the Hearing Panel and will schedule a Hearing date, time, and location and notify the Parties of the same. The date of the Hearing will be at least ten (10) calendar days after the Parties' receipt of the Investigation Report and, except in extraordinary circumstances, no later than twenty-four (24) calendar days from the issuance of the Investigation Report.

**1. *Pre-Hearing Meeting***

: Prior to the Hearing, the Director of Equal Opportunity will convene a separate pre-Hearing meeting with each of the Parties and their Advisors to review procedures to be followed at the Hearing; to identify the names of witnesses that will be asked to appear; and to answer any other questions or share information prior to the Hearing. At this pre-Hearing meeting, each Party must identify the witnesses they will want to appear at the Hearing for questioning in order to allow the Director of Equal Opportunity to successfully schedule and make arrangements for the Hearing. The Director of Equal Opportunity will also discuss the time allotted for the Hearing and

any time limitations. If either Party will not be attending the Hearing, the Director of Equal Opportunity will determine whether and how that absence affects the ability of the College to move forward with the Hearing, as well as the Hearing schedule. The Director of Equal Opportunity will also discuss the role of Advisors at the Hearing and determine whether a Party is in need of an assigned representative to ask questions on the Party's behalf during the Hearing. The Parties are expected to identify witnesses they wish to be available during the Hearing by the pre-Hearing meeting. The Hearing Panel may, in its discretion, exclude from the Hearing witnesses who were not identified by a Party.

**I. *Recording Hearing***

: The Hearing is live and closed to the public. The Parties are allowed to have their Advisor present throughout the Hearing process. The College will record the Hearing and any other recording by the Parties, their Advisors or anyone else is prohibited. A copy of the recording will be made available to Parties for their inspection and review. In most instances, the Hearing will be conducted virtually using technology enabling the Hearing Panel and Parties to simultaneously see and hear the proceedings while the Parties and Hearing Panel are in different locations.

**I. *Case Presentation and Questioning***

: The Hearing is not intended to be a repeat of the Investigation or an exhaustive review of the evidence summarized in the Investigation Report. The Hearing Panel will be well-versed in the facts of the case having reviewed the Investigation Report, witness interviews and any responses to the Investigation Report submitted by the Parties. The Parties and their Advisors will attend the Hearing before the Hearing Panel. Other College administrators may attend at the request of or with the prior approval of the Hearing Panel, and the Parties will be notified in advance of anyone who will be in attendance.

The Hearing Panel has absolute discretion to decide upon the format for the Hearing and to determine which witnesses are relevant to their outcome determination. The Hearing Panel may decline to hear from a witness where they conclude that the information is not relevant for their outcome determination or unduly duplicative of other testimony already provided at the Hearing. A typical Hearing may include brief opening remarks by a member of the Hearing Panel; questions posed by the Hearing Panel to one or both of the Parties or witnesses; follow-up questions by one Party to the other (typically with the Respondent's Advisor questioning the Reporting Party first); questions by the Hearing Panel to any witness; and follow-up questions by the Parties (through their Advisors) to any witness. The Hearing Panel will also afford the

Parties an opportunity at the end of the Hearing to offer brief closing remarks. A decision whether to offer closing remarks is completely voluntary.

During the Hearing, the Hearing Panel will provide each Party an opportunity, through their Advisor, to ask the other Party and any witnesses relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live Hearing will be conducted directly, orally, and in real time by the Party's Advisor of choice and never by a Party personally. If a Party does not intend to have an Advisor present at the live Hearing, the Party may make arrangements at the pre-Hearing meeting for the College to provide an individual who will be available at the Hearing to ask questions on the Party's behalf. If the Party does not have an Advisor, and refuses the College's offer to provide an individual to ask questions on the Party's behalf, then the Party will not be permitted to ask questions of the other Party or any witnesses

1. **Evidentiary Issues**
2. Presumption of non-responsibility and non-participation

The Respondent will be deemed responsible only where the Hearing Panel concludes that a preponderance of the evidence supports a determination that the Respondent engaged in Sexual Harassment. Neither Party is required to participate in the Investigation or any form of resolution under this Complaint Resolution Process, and the Hearing Panel will not draw any adverse inference from a decision by either of the Parties not to participate.

If a Party or witness does not submit to cross-examination at the live Hearing, this may impact the Hearing Panel's ability to review the evidence and/or give credibility to previous statements provided by the Party or witness as they work to reach a determination regarding responsibility. The Hearing Panel will not draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live Hearing or refusal to answer cross-examination or other questions

1. Evidence of prior or subsequent misconduct

Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Sexual Harassment by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of Sexual Harassment, may be deemed relevant to the determination of responsibility for the Sexual Harassment 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 Sexual Harassment. Such prior or subsequent conduct may subject the Respondent to additional sanctions. The Hearing Panel will determine the relevance of this information and both Parties will have access to information regarding this information in the same manner they are provided access to all evidence gathered during the Investigation.

iii. Reporting Party's prior sexual history

At all stages of the Investigation and Hearing process, questions and evidence about the Reporting Party's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Reporting Party's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Reporting Party, or if the questions and evidence concern specific incidents of the Reporting Party's prior sexual behavior with respect to the Respondent and are offered to prove consent.

However, even in the context of a prior sexual relationship, consent to one sexual act on one occasion does not constitute consent to another sexual act on a different occasion. The Hearing Panel will explain to the Party proposing the questions during the Hearing any decision to exclude a question as not relevant.

#### i. Relevance of evidence

The Investigator will determine what evidence is relevant to include in the Investigation Report. The Parties and their Advisors will have an equal opportunity to inspect and review any evidence obtained as part of the Investigation that is directly related to the allegations raised in the Formal Complaint even if deemed immaterial or irrelevant by the Investigator.

The Hearing Panel has the ultimate discretion in determining the relevance of any proffered evidence and to include or exclude certain types of evidence or questions. 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 or the Hearing Panel and could be grounds for an independent complaint of Retaliation.

Only relevant cross-examination and other questions may be asked of a Party or witness. Before any Party or witness answers a cross-examination or other question from an Advisor, the Hearing Panel must first determine whether the question is relevant and interject to explain any decision to exclude a question as not relevant.

#### i. 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 any of the Parties. When expert opinion information is directly related to the allegations raised in the Formal Complaint, the Parties will be apprised of the information and provided an opportunity to submit additional expert information.

#### vi. Privileged information

No Party will be required or permitted to use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

#### i. **Standard of Evidence:** In all cases before the Hearing Panel, the standard of proof is the Preponderance of Evidence. A finding of responsibility by a

preponderance of evidence means that it is more likely than not, based on all the reasonable evidence and reasonable inferences from the evidence, that the Respondent violated this Policy.

## **Phase 6 – The Notice of Decision**

Following the Hearing, the Hearing Panel will consider all of the evidence and make a determination, by a preponderance of the evidence, whether the Respondent has violated the Policy. The Hearing Panel will simultaneously issue to both Parties a written Notice of Decision within ten (10) business days of the Hearing.

The Notice of Decision will include the following:

- A description of the alleged Sexual Harassment;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and Hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the College's policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Hearing Panel imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided to the Reporting Party; and
- The College's procedures and permissible bases for the Parties to appeal.

The determination regarding responsibility becomes final either on the date that the College provides the Parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

As discuss further in Phase 7 below, when the Hearing Panel finds that Sexual Harassment occurred, the Notice of Decision will also include any Disciplinary Sanctions the Hearing Panel imposes on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided to the Reporting Party, and, to the extent appropriate, other Students identified by to be experiencing the effects of the Sexual Harassment.

If the Hearing Panel is not persuaded that a preponderance of evidence establishes that Sexual Harassment occurred, whatever the quantity of the evidence is, the Investigator will not determine that Sexual Harassment occurred, and will not impose any Disciplinary Sanctions on the Respondent. A Party, witness, or others participating in the Complaint Resolution Process

will not be subject to any disciplinary action for making a false statement based solely on the determination there was insufficient evidence to find a Respondent responsible for Sexual Harassment.

## Phase 7 – Disciplinary Sanctions and Remedies

Where there is a finding of responsibility, the Hearing Panel is responsible for determining appropriate remedies and sanctions. Remedies will be designed to restore or preserve the Reporting Party's equal access to St. Olaf's education programs and activities. Remedies may include sanctions imposed upon a Respondent who is found responsible for violating the College's Policy Prohibiting Sexual Harassment. Such sanctions may include a variety of institutional responses or requirements, including, but not limited to, the following:

- *For Students:* expulsion; suspension (usually, at a minimum, the greater of either 1 year or the remaining amount of time the Reporting Party will remain a student at the College); disciplinary 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; revocation of an honor or degree, and any other Disciplinary Sanctions listed in the [Code of](https://wp.stolaf.edu/thebook/code-of-conduct/) (<https://wp.stolaf.edu/thebook/code-of-conduct/>) [Student Conduct](https://wp.stolaf.edu/thebook/code-of-conduct/) (<https://wp.stolaf.edu/thebook/code-of-conduct/>) or deemed appropriate under the circumstances.
- *For staff and faculty:* a disciplinary warning, unpaid suspensions, suspension of promotion and salary increments, loss of prospective benefits, major fines, reduction in salary, suspension from service, suspension or withdrawal of privileges, demotion, termination of employment, and any other available Disciplinary Sanctions as specified by the [St. Olaf Faculty Manual](https://wp.stolaf.edu/doc/faculty-manual/) (<https://wp.stolaf.edu/doc/faculty-manual/>), [Faculty Handbook](https://wp.stolaf.edu/facultyhandbook/) (<https://wp.stolaf.edu/facultyhandbook/>), or [Staff Handbook](https://wp.stolaf.edu/hr/files/2012/11/Staff-Handbook.pdf) (<https://wp.stolaf.edu/hr/files/2012/11/Staff-Handbook.pdf>) as applicable. If the Hearing Panel determines that it is more likely than not that a faculty member has violated this Policy and that dismissal may be an appropriate Disciplinary Sanction, the matter will be referred to the President, or the President's designee, for appropriate process and decision, which shall be determined and administered in a manner consistent with the [Faculty Manual](https://wp.stolaf.edu/doc/faculty-manual/). (<https://wp.stolaf.edu/doc/faculty-manual/>)

The propriety of any particular Disciplinary 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 Sexual Harassment, the Complaint Resolution Process provides the Hearing Panel with wide latitude in the imposition of Disciplinary Sanctions tailored to circumstances of each unique matter.

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

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

The Director of Equal Opportunity is responsible for implementation of any Remedies and Disciplinary Sanctions imposed by the Hearing Panel. Disciplinary Sanctions become effective either after the time for appeal has expired, or, if a Party appeals the Hearing Panel's decision, after the Appeal Adjudicator issues a determination affirming the Hearing Panel's decision. If the Appeal Adjudicator's decision results in further proceedings, the Disciplinary Sanctions imposed may be modified by the Hearing Panel, and will not become final until the conclusion of all further proceedings and any appeals. If the Appeal Adjudicator's decision results in reversing a determination that the Respondent engaged in Sexual Harassment, no Disciplinary Sanctions will be imposed.

If there is a determination that Sexual Harassment occurred, the Director of Equal Opportunity will, as appropriate:

- Coordinate the provision and implementation of Remedies to a Reporting Party and other people the Director of Equal Opportunity identifies as having had equal access to the College's education program or activity limited or denied as a result of Sexual Harassment;
- Coordinate the imposition of any Disciplinary Sanctions on a Respondent, including notification to the Reporting Party of any such Disciplinary

Sanctions; and

- Take other appropriate prompt and effective steps to ensure that Sexual Harassment does not continue or recur within the College's education program or activity.

## **Phase 8 – Appeal**

- **Appeal of Dismissal**

A Party wishing to appeal a decision by the College to dismiss a Formal Complaint or any allegations, may do so by submitting a written letter of appeal to the Director of Equal Opportunity within three (3) business days of when the Director of Equal Opportunity sent the Notice of Dismissal to the Parties. A decision denying a request to dismiss a Formal Complaint or any allegations cannot be the subject of an appeal. The letter of appeal should state the grounds for appeal. The non-appealing Party will have an opportunity to review and respond to the letter of appeal. A non-appealing Party's response to an appeal must be received within three (3) business days of notice of the appeal letter. The Director of Equal Opportunity will provide the Formal Complaint, Notice of Dismissal and any other information relevant to the appeal to the Appeal Adjudicator for review.

The identity of the Appeal Adjudicator and instructions on how to appeal will be included in the Notice of Dismissal. The Appeal Adjudicator will not be the Director of Equal Opportunity, the Investigator, or any other individual who had previous involvement in the matter. If a Reporting Party or Respondent has any concern about bias or conflict of interest of Appeal Adjudicator, such concern should be Reported to the Director of Equal Opportunity no later than two (2) business days after receiving the notice of the identity of the Appeal Adjudicator in the Notice of Dismissal.

Either or both Parties may contest the determination regarding responsibility on any one or more of the following grounds.

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available during the Investigation; and
- The Director of Equal Opportunity, Investigator, or member of the Hearing Panel had a conflict of interest or bias for or against Reporting Parties or Respondents generally or the individual Reporting Party or Respondent that would change the outcome.

If a Party appeals the Notice of Dismissal, the Appeal Adjudicator will review the appeal, the Formal Complaint, the Notice of Dismissal and other relevant information to determine whether the appeal has merit. In reviewing any appeal, the Appeal Adjudicator has the ability to affirm the Equal Opportunity CORE Team decision, or overturn the decision and remand the

matter for further Investigation and adjudication. The Appeal Adjudicator will simultaneously issue to both Parties a written decision describing the result of the appeal and the rationale for the result within three (3) business days after receipt of all appeal documents.

- **Appeal of Hearing Panel Decision**

A Party wishing to appeal a decision by the Hearing Panel may do so by submitting a written letter of appeal to the Director of Equal Opportunity within three (3) business days of when the Director of Equal Opportunity sent the Hearing Panel's Notice of Decision to the Parties. The letter of appeal should state the grounds for appeal. The non-appealing Party will have an opportunity to review and respond to the letter of appeal. A non-appealing Party's response to an appeal must be received within three (3) business days of notice of the appeal letter. The Director of Equal Opportunity will provide the Investigation Report, the Hearing Panel's Notice of Decision, the appeal letters, and any other information relevant to the appeal to the Appeal Adjudicator for review.

The identity of the Appeal Adjudicator and instructions on how to appeal will be included in the Notice of Decision. The Appeal Adjudicator will not be the Director of Equal Opportunity, the Investigator, or any other individual who had previous involvement in the matter. If a Reporting Party or Respondent has any concern about bias or conflict of interest of Appeal Adjudicator, such concern should be Reported to the Director of Equal Opportunity no later than two (2) business days after receiving the notice of the identity of the Appeal Adjudicator in the Notice of Decision.

Either or both Parties may contest the Hearing Panel's determination regarding responsibility on any one or more of the following grounds:

- Procedural irregularity that would change the outcome;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made that could materially affect the outcome of the matter; and
- The Director of Equal Opportunity, Investigator, or member of the Hearing Panel had a conflict of interest or bias for or against Reporting Parties or Respondents generally or the individual Reporting Party or Respondent that would change the outcome.

If either of the Parties appeals the Hearing Panel's determination, the Appeal Adjudicator will review the appeal, the Investigation Report, the Notice of Decision and other relevant information to determine whether the appeal has merit. In reviewing any appeal, the Appeal Adjudicator has the ability to affirm the Hearing Panel's decision, overturn the Hearing Panel's decision, or remand the matter for further Investigation and adjudication. The Appeal Adjudicator will simultaneously issue to both Parties a written decision describing the result of the appeal and the rationale for the result within three (3) business days after receipt of all

appeal documents.

The Complaint Resolution Process will end and the decision will become final upon either of the following:

- The deadline for an appeal expiring without either Party submitting a written notice of appeal; or
- If a Party appeals the Hearing Panel's decision, upon the conclusion of the appeal.

## X. RECORDKEEPING

The College will maintain for a period of seven (7) years, records of the following:

- i. Each Report of Sexual Harassment and all Supportive Measures offered and provided in response;
- i. Each Investigation conducted under the Complaint Resolution Process including any determination regarding responsibility and any recordings or transcripts of witness interviews under the Complaint Resolution Process
- i. Any Disciplinary Sanctions imposed on a Respondent, and any Remedies provided to a Reporting Party designed to restore or preserve equal access to the College's education program or activity;
- i. Any appeal and the result;
- i. Any informal resolution and the result; and
- i. All materials used to train the Director of Equal Opportunity, Investigators, Hearing Panel, Appeal Adjudicators, and Informal Resolution Process facilitators. These training materials are publicly available upon request to the Director of Equal Opportunity.

## XI. POLICY REVIEW

### A. Ongoing internal Policy review

This Policy is maintained by the Equal Opportunity Team and subject to ongoing review and improvement. The Equal Opportunity Team will review this Policy on at least an annual basis. To assist the Equal Opportunity Team in its review of its policies and practices, St. Olaf College

has established a Title IX Advisory Group that is tasked with gathering information from the St. Olaf community and providing recommendations on Policy revisions and enhancements. The Title IX Advisory Group is appointed by St. Olaf's President and is composed of Student, faculty and staff members.

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

## B. External recourse

Nothing in this Policy or Complaint Resolution Process 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 Sexual Harassment and/or initiated the Complaint Resolution Process, and who believes the College's response did not comply with this Policy and the College's legal obligations, 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

TDD: 877.521.2172

Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov) (<mailto:OCR.Chicago@ed.gov>)