



Sexual Misconduct Policy

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- counselors in St. Thomas Counseling and Psychological Services;
- health care providers at St. Thomas Health Services; and
- clergy, or other ministers of any religion (e.g. campus chaplains), in the following limited circumstances:
 - A member of the clergy or minister who learns of sexual misconduct through confession to such clergy member or minister, if disclosure is enjoined by the rules and practice of the religious body to which the member of the clergy or minister belongs.
 - A member of the clergy or minister who does not have significant responsibility for student or campus activities other than pastoral counseling and who learns of sexual misconduct in the course of providing confidential pastoral counseling of a professional character

- xiv. Rector/Vice President of The Saint Paul Seminary School of Divinity
- xv. Department chairs and directors of departments, programs, centers, offices and institutes
- xvi. Community Directors and Hall Directors in student residence halls

All Officials with Authority must promptly report any information regarding a potential report of sexual misconduct to the University's Title IX Coordinator.

i. ~~FOR THE UNIVERSITY OF MARYLAND (2014) (2015) (2016) (2017) (2018) (2019) (2020)~~

- Offering a benefit (such as a grade, promotion or athletic participation) in exchange for sexual favors or other verbal or physical conduct of a sexual nature.
- Repeatedly subjecting a person to unwelcome sexual attention or sexual advances, whether on-line, in person or in any other way.
- Pervasive, inappropriate displays of sexually explicit or sexually graphic content in a workplace or educational environment.
- A pattern of bullying based on gender, sex or sexual orientation.
- Persistent and offensive sexually oriented or sex- or gender-based jokes and comments.
- Other severe or pervasive conduct that creates a hostile work or educational environment.

Other types of sexual misconduct defined in this policy also may be considered sexual harassment under applicable laws.

Clarification Regarding the Academic Environment

The prohibition of sexual harassment does not circumscribe a faculty member’s freedom as part of the faculty member’s teaching to select, assign or discuss materials or topics that are legitimately related to the subject being taught. In the classroom and other forums, St. Thomas actively encourages and seeks to facilitate the free expression, challenge and debate of diverse and deeply held beliefs and opinions. Students who have concerns regarding a comment or discussion in class are encouraged to speak directly to the faculty member, the department chair, or the dean of the school or college about the concern.

In situations where there are perceived or potential conflicts between (a) the limitations on conduct and communications implied by the definition of sexual harassment contained in this policy and (b) the principles of academic freedom, St. Thomas will use as a working definition of academic freedom the “1940 Statement of Principles and Interpretive Comments” and the “1970 Interpretive Comments” on academic freedom by the American Association of University Professors (“AAUP Principles and Comments”). When addressing complaints against faculty members, the existence of such a perceived or potential conflict and the appropriate application of the AAUP Principles and Comments will be considered in consultation with the dean of the respective school or college (or, if the dean has a conflict of interest, the provost or provost’s designee).

2. ~~Sexual Assault~~

Sexual assault refers to non-consensual sexual contact or non-consensual sexual penetration, as defined below. Incest and statutory rape are considered forms of sexual assault.

~~Non-Consensual Sexual Contact~~ : ~~Non-Consensual Sexual Penetration~~

Non-consensual sexual contact is any intentional touching, however slight, by any person upon the breasts, buttock, groin, genital area or inner thigh (collectively “intimate parts”) of any other person, or of such other person’s clothing covering these areas, with or by any body part or any object, seminal fluid or sperm with sexual or aggressive intent that occurs in one or more of the following ways:

- by force or coercion,
- without the consent of the other person, and/or
- when the person knows or reasonably should know that the other person is incapacitated, regardless of the reason for incapacitation.

Non-consensual sexual contact also includes causing or inducing a person, without consent, to similarly touch or fondle the intimate parts of oneself or someone else. Activity that constitutes nonconsensual sexual contact under this policy also may constitute criminal sexual misconduct under Minnesota law. See *Minnesota Statutes Section 609.341 et seq.*

~~Non-Consensual Sexual Penetration~~

Non-consensual sexual penetration is any anal or vaginal penetration, however slight, by any object or body part (e.g. penis, tongue, finger) and/or any mouth to genital contact that occurs in one or

- Inability 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 whom you are with?”

This is not an exhaustive list. Exhibiting one or more of the behaviors listed above does not necessarily demonstrate that a person is incapacitated for purposes of finding a policy violation. Determinations of incapacitation are made based on all the facts and circumstances.

• **C**_____

Coercion is conduct, including intimidation and express or implied threats of physical, emotional or

- Non(consensual photographing or recording of nudity or sexual activity, whether in digital, video, audio, electronic or other form.
- Going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex).
- Voyeurism (the act of intentionally observing, spying on or listening to one or more person(s) involved in sexual contact or in any state of undress without their consent).
- Exposing one's genitals or inducing another to expose the person's genitals in nonconsensual circumstances.
- Knowingly transmitting a sexually transmitted disease or sexually transmitted infection to another person.
- Possession of child pornography. (Possession of child pornography must be reported immediately in accordance with the University of St. Thomas Policy on Reporting Suspected Child Abuse.)
- Prostituting another person.

4. **D**

5. Domestic Violence

Domestic violence is a felony or misdemeanor crime of violence committed by:

- the victim's current or former spouse or intimate partner;
- a person with whom the victim shares a child;
- a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- a person similarly situated to a spouse under domestic or family violence law; or
- anyone else against a victim who is protected under applicable domestic or family violence laws.

Domestic violence is prohibited by Minnesota law. *See Minnesota Statutes Section 518B.01 et seq.*

Examples of conduct that constitutes dating violence may constitute domestic violence when it occurs between spouses or persons similarly situated or protected under Minnesota's domestic violence laws. *See Minnesota Statutes Section 518B.01 et seq.*

6. Stalking

Stalking is a course or pattern of two or more acts of unwelcome and unwanted conduct directed towards a specific person that would cause a reasonable person under the circumstances to feel frightened, threatened, oppressed or intimidated or to suffer substantial emotional distress. Stalking is prohibited by Minnesota law. *See Minnesota Statutes Section 609.749.*

Stalking behavior may include, but is not limited to:

- Unwanted and repeated communications by phone, mail, text message, email and/or other electronic communications, including social media.
- Repeatedly leaving or sending the victim unwanted items, presents or flowers.
- Following or lying in wait for the victim at places such as home, school, work or recreational facilities.
- Making direct or indirect threats to harm the victim or the victim's children, relatives, friends or pets.
- Damaging or threatening to damage the victim's property.
- Posting or spreading false or private information about the victim on the internet, in a public place, or by word of mouth.
- Unreasonably obtaining personal information about the victim by accessing public records, using internet search services, hiring private investigators, going through the victim's

SECTION V. REPORTING OR RAISING CONCERNS ABOUT SEXUAL MISCONDUCT

St. Thomas is committed to investigating, resolving and preventing sexual misconduct. St. Thomas strongly encourages individuals who may have experienced sexual misconduct to tell someone about their experience as soon as possible. As described below, St. Thomas expects faculty, staff and members of the Board of Trustees to notify the Title IX Coordinator when they become aware of conduct that they believe is or reasonably may be sexual misconduct by or against a Covered Person. This ensures that parties will receive timely and appropriate support and information. It also enables St. Thomas to fulfill its commitment to prevent and address sexual misconduct and to comply with applicable law. There are multiple reporting options as further described in Section V.C below.

A. Emergency Reporting

1. O -C E

In St. Paul and Minneapolis, dial (651) 962-5555 (or 2-5555 from any campus telephone) to reach St. Thomas Public Safety, who will direct emergency resources to your campus location.

On the Rome campus, dial 113 from the nearest telephone.

2. O..-C E

In Minnesota or elsewhere in the United States, dial 911 from the nearest off-campus telephone.

On the Rome campus, dial 113 from the nearest telephone. In other study abroad programs, contact the program director or local police.

B. Reporting Options for Individuals Who Have Personally Experienced Sexual Misconduct

1. M C

Individuals who have personally experienced sexual misconduct and wish to keep details of the incident completely confidential or are uncertain whether they wish to pursue the St. Thomas response and resolution procedures described in Section VI of this policy, are urged to contact a Confidential Resource as soon as possible following the incident. Section VII of this policy contains contact information for on-campus and off-campus Confidential Resources.

If you are unsure of someone's duties and ability to maintain confidentiality about a situation, ask the individual before revealing confidential information.

L E

Reporting Parties have the right to report to law enforcement all misconduct that may violate criminal laws, and St. Thomas **strongly urges** Reporting Parties to make such reports. If a Reporting Party who has experienced potentially criminal sexual misconduct, including sexual assault, dating violence, stalking or domestic violence, wishes to notify law enforcement authorities or file criminal charges, St. Thomas will assist the Reporting Party to do so promptly upon the Reporting Party's request. St. Thomas also recognizes a Reporting Party's right to decline to make a police report.

Upon request by the police or the Reporting Party, St. Thomas Public Safety will provide reasonable

will share data related to the reported incident with police conducting a criminal investigation to the extent permitted by student data privacy laws.

Reports of an incident or allegation of sexual misconduct by or against a Covered Person may be made to St. Thomas by contacting the Title IX Coordinator or another Official with Authority. If an Official with Authority other than the Title IX Coordinator receives a report, the Official with

Authority is required to promptly report that information to the Title IX Coordinator. The Title IX Coordinator will assess the report in order to determine processes that may apply and in order to coordinate resources and processes regarding the report on behalf of St. Thomas. Reports may be made directly using the contact information in Section VII or on-line through the [Title IX website](#). The St. Thomas response and resolution procedures described in Section VI of this policy will be initiated when an Official with Authority becomes aware of an incident or allegation of sexual misconduct involving a Covered Person.

reported after the passage of more than one year will be addressed at the discretion of St. Thomas based on the availability of witnesses and other evidence and the University's interest in providing a safe, non-discriminatory learning and working environment. Information and support resources will be offered to a Reporting Party regardless of when the report is made.

3. C _____ M _____ A _____

. C _____

Reporting Parties may discuss incidents of sexual misconduct in complete confidence with a

St. Thomas strongly urges reporting of sexual misconduct and seeks to remove any barriers to making a report or participating in an investigation. A student who reports sexual misconduct in good faith, either as a Reporting Party, as a Third-Party Reporter or as a witness in a fact-finding investigation, will not be subject to disciplinary action under student conduct policies for their own personal consumption of alcohol or other drugs in connection with the reported incident.

C. Reporting by St. Thomas Faculty, Staff and Other Covered Persons

1. Officials with Authority

St. Thomas strives to be a community free from sexual misconduct. To help St. Thomas meet this goal, all St. Thomas faculty and staff (but not student workers), regardless of whether they are Officials with Authority, and all members of the St. Thomas Board of Trustees, are expected to notify the Title IX Coordinator promptly after becoming aware of an incident or allegation of sexual misconduct involving a Covered Person, unless they meet one of the exemptions in the next paragraph. This report may be made online but may not be made anonymously. The report helps ensure that St. Thomas responds appropriately and fulfills its obligations relating to any incident. Required reporting also enables the Title IX Coordinator to track trends within the community and provide appropriate consultation regarding resources, support, and other questions involving the University's policy and procedures for addressing reports of sexual misconduct. In most cases, any employee or Board member who is not an Official with Authority may withhold the Reporting Party's name and/or other identifying details when contacting the Title IX Coordinator consistent with a request from the Reporting Party.

St. Thomas faculty and staff who learn of sexual misconduct while serving as a Confidential Resource are not required to notify the Title IX Coordinator. In addition, faculty or staff members or Board of Trustee members who have a professional license requiring confidentiality of communications with a patient or client (e.g., a law license, psychology license or social work license) are not required to notify the Title IX Coordinator about information that their professional license requires them to keep confidential.

2. Other Covered Persons

St. Thomas encourages, but does not require, all other persons who become aware of an incident or allegation of sexual misconduct to promptly report the incident or allegation to the Title IX Coordinator. Before deciding whether to report, St. Thomas encourages such persons to review the confidentiality, amnesty and protection from retaliation provisions set forth in Section V.B.3 of this policy.

D.

SECTION VI. OBLIGATIONS OF ST THOMAS COMMUNITY FOLLOWING REPORT

A. Response and Resolution Procedures

When the Title IX Coordinator becomes aware of an incident or allegation of sexual misconduct, the Title IX Coordinator will take steps to initiate the response and resolution procedures described in A _____ x A to this policy.

The Title IX Coordinator is responsible for ensuring the uniform and consistent application of this policy and the related procedures and for ensuring incidents and allegations of sexual misconduct by or against a Covered Person are addressed in a timely and appropriate manner. St. Thomas recognizes that each case is unique and reserves the flexibility, at the discretion of the Title IX Coordinator or designee, to authorize departures from the response and resolution procedures as warranted by the circumstances and consistent with state and federal laws and regulations. In addition, the Title IX Coordinator and the officials designated in A _____ x A to manage the response and resolution procedures have authority, alone or together, to take reasonable steps to protect the St. Thomas community or any individual member of the St. Thomas community from sexual misconduct, regardless whether such steps are explicitly contemplated in this policy or the related procedures.

In cases involving domestic violence, dating violence, sexual assault and stalking and in other cases involving safety concerns, the safety of the Reporting Party and the community is of primary importance. St. Thomas will consult with the Reporting Party and with other resources to determine, under the particular circumstances, how to conduct the response and resolution procedures in a way that protects the safety of the Reporting Party and the community while promoting accountability for prohibited misconduct. Both during and after the process, if requested

Parties and other parties involved in a sexual misconduct matter with dignity, while also supporting the impartial pursuit of truth and upholding the community's expectation that individuals will be held accountable for personal conduct that is determined to violate this policy.

D. No Retaliation

St. Thomas, and federal and state law, prohibit retaliation against individuals for raising concerns about or making reports of sexual misconduct in good faith. No student, faculty or staff will be reprimanded or retaliated against for notifying St. Thomas about potential incidents of sexual misconduct in good faith or for participating or refusing to participate in a factfinding investigation or hearing related to reports of sexual misconduct. Retaliatory actions include, but are not limited to, threats or actual violence against the person or that person's property, adverse educational or employment consequences, ridicule, intimidation, bullying or ostracism.

St. Thomas will take steps to prevent retaliation and will take strong responsive action if retaliation occurs. Any conduct by a Covered Person that constitutes retaliation or reprisal is subject to disciplinary action, up to and including dismissal, expulsion and prohibition from campus or other St. Thomas activities. Concerns regarding retaliation will be addressed in accordance with applicable St. Thomas policies and procedures addressing retaliation.

St. Thomas may impose sanctions if it determines that an individual knowingly initiated in bad faith a claim of sexual misconduct, knowingly provided false information, or intentionally misled a St. Thomas representative during an investigation of sexual misconduct allegations or a related complaint.

SECTION VII. RESOURCES AND CONTACT INFORMATION

A. Emergency Contacts

24-Hour Emergency On Campus – St. Paul and Minneapolis: (651) 962-5555

24-Hour Emergency Off Campus – St. Paul and Minneapolis: 911

24-Hour Emergency – Rome: General Emergency: 113 and Police: 112

B. Contact Information for Making Reports to St. Thomas

September 16, 2014
St. Thomas University
1100 University Ave
St. Paul, MN 55105
651-962-5555
www.stthomas.edu

[Dean of Students Website](#)

Human Resources Business Partners

Room 217, Aquinas Hall

(651) 962-6510

[Human Resources Website](#)

Department of Public Safety

St. Paul: Morrison Hall, 1st Floor

Minneapolis: School of Law, 1st Floor

(651) 962-5100

[Public Safety Website](#)

Online Reports: [St. Thomas Title IX Website](#)

C. On-Campus Confidential Resources

Counseling and Psychological Services

(651) 254-3584

United Hospital Emergency Room

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Casa de Esperanza

St. Paul, Minnesota

(651) 772-1611 24-Hour Bilingual (English and Spanish) helpline

There are many other culturally specific support services in Minnesota. Please contact the [Title IX Office](#) for additional resources.

F. Crime Victim Services and Legal Information

Minnesota Crime Victims Bill of Rights

Under Minnesota law, crime victims, including victims of dating and domestic violence, stalking and sexual assault, have a number of rights, including the right to assistance from the Crime Victims Reparation Board and the commissioner of public safety. The [Crime Victims Bill of Rights](#) is available online. The Minnesota Department of Public Safety provides an on-line list of [Minnesota Resources for Crime Victims](#).

Bridges to Safety

Ramsey County Service Center for victims of dating & domestic violence

(651) 266-9901

Provides legal advocacy, legal consultation and assistance fi.6 (v)-2 (a)-1.2 (i)5.8 (l)-1.2 (a)-1.2 (b)6.6 (l).001Lx(e)-1 (

U.S. Department of Education, Office for Civil Rights (OCR)

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481

Facsimile: (202) 453-6012 TDD#: (877) 521-2172

Email: OCR@ed.gov

<http://www.ed.gov/ocr>

G. Resources at Other Institutions

If students who have experienced sexual misconduct transfer to another institution, the University's Title IX Coordinator can assist them in obtaining information about available resources for sexual misconduct victims at that institution. Students who would like such assistance should contact the Title IX Coordinator.



Appendix A to Sexual Misconduct Policy Response and Resolution Procedures

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St. Thomas is committed to the prompt, impartial and equitable resolution of reports of sexual misconduct that may violate University policy. This document explains the internal procedures St. Thomas generally follows to investigate and adjudicate such reports. These provisions are intended to be flexible so as to allow St. Thomas to fulfill its educational mission and maintain a safe, nondiscriminatory learning and working environment. The Title IX Coordinator or designee has discretion to authorize departures from these provisions when warranted by the circumstances. These procedures are not intended to replicate or replace the process followed by law enforcement or the courts in connection with alleged violations of criminal law.

As described in the Sexual Misconduct Policy (“policy”), federal regulations require St. Thomas to follow certain processes when responding to Title IX-based sexual misconduct, which includes some but not all of the sexual misconduct prohibited by St. Thomas. St. Thomas has determined that it can provide the greatest degree of clarity and equity to community members by generally using the same procedures to respond to both Title IX-based and non-Title IX-based sexual misconduct, except that St. Thomas does not use live hearings to adjudicate reports of non-Title IX-based misconduct that could not result in suspension or expulsion.

SECTION I. DEFINITIONS

The definitions used in the policy also apply to these procedures, along with the additional definitions set forth in these procedures.

- a. *Actual knowledge* (n) - ~~(u) (e) - (IX) (b) (A) (h) (e) - 2 d (e)) (c) (d) (h) (e) -~~

- d. A **Report** is an informal oral or written statement by a Reporting Party or by a Third-Party Reporter that alleges sexual misconduct by or against a Covered Person. A Report may be resolved through provision of supportive measures to the Reporting Party, or through the Alternative Resolution Process or the Formal Process.
- e. A **Formal Complaint** is a formal written statement, signed and submitted by a Reporting Party or signed by the Title IX Coordinator, alleging Title IX-based sexual harassment (as defined under Section IV.B. of the policy) against a Responding Party and requesting that St. Thomas investigate the allegation of sexual harassment or otherwise address it through The6 3m k.

SECTION II. SCOPE AND APPLICATION

These procedures will be initiated when an Official with Authority has actual knowledge of a Report or Formal Complaint of sexual misconduct:

- where the Reporting Party and the Responding Party are both Covered Persons; or
- where the Responding Party but not the Reporting Party is a Covered Person and the alleged incident occurred on the St. Thomas campus or in connection with a St. Thomas education

to confirm the summary is accurate from the Reporting Party's perspective. Gather information from the Reporting Party as necessary to reasonably advise or support the Reporting Party with respect to the response and resolution process and seek to determine, if possible, whether or not the reported information is a report of Title IX-based sexual misconduct, non-Title IX-based sexual misconduct, or neither. Such 0 Td(7 0 Tx)2.2 (c)-2 (on).2 (c)-2 (o (i)5.

- Changing a Reporting Party's or Responding Party's work or class schedule, in consultation with appropriate administrator(s).
- Issuing a timely warning of any reported incident that presents a serious or continuing threat or danger to the community.
- Providing information about orders for protection and harassment restraining orders in appropriate cases.
- Notifying and consulting with appropriate St. Thomas administrators, faculty and staff members as warranted under the circumstances.

Supportive measures will be determined on a case-by-case basis, and may also include community-based measures, such as increased security or monitoring of certain areas of campus or training provided to particular community groups. Either party is free to raise concerns regarding supportive measures with the Response Manager. The Response Manager may modify or initiate new or different supportive measures at any point during the response and resolution process based on the Response Manager's determination of how best to protect the parties and the broader St. Thomas community.

If the Response Manager is not immediately available and the Title IX Coordinator, Dean of Students, or Chief Human Resources Officer determines that immediate action is reasonably necessary and appropriate, the Title IX Coordinator, Dean of Students and/or Chief Human Resources Officer is authorized to take or direct such action.

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In order to determine if an emergency removal is necessary, St. Thomas will conduct an individualized safety and risk analysis. If St. Thomas determines that there is an immediate threat to the physical health or safety of any student or other individual, including the Responding Party, arising from the allegations of sexual harassment, St. Thomas may choose to institute an emergency removal. The Responding Party will be provided notice of this determination and given the opportunity to challenge the decision immediately following the removal.

5. A _____ L _____

For a Responding Party who is a faculty or staff employee, St. Thomas maintains the right to require the Responding Party to take administrative leave when St. Thomas determines it is an appropriate action under the circumstances. Administrative leave may not be utilized unless a Formal Complaint has been filed and a response process initiated.

D. Determination of Whether to File Formal Complaint

A Reporting Party may decide whether or not to file a Formal Complaint. If a Formal Complaint is not filed, the Reporting Party is still entitled to appropriate supportive measures, as defined and discussed above. A Formal Complaint may be filed by a Reporting Party or signed by the Title IX Coordinator.

In matters involving Title IX-based sexual misconduct, a Formal Complaint must be filed to participate in either the Alternative Resolution or the Formal Process. In matters involving non-Title IX-based sexual misconduct, a Formal Complaint must only be filed if the Reporting Party wishes to utilize the Formal Process.

In situations in which the Reporting Party initially declines to file a Formal Complaint, the Reporting Party may file a Formal Complaint at a later date, though the University's ability to effectively investigate a Formal Complaint may diminish with the passage of time.

After a Formal Complaint is filed, the Reporting Party will be referred to as the "Complainant," and the Responding Party will be referred to as the "Respondent."

E. Notice to Parties

Upon receipt of the Formal Complaint, St. Thomas will provide written notice to the known parties that includes:

- A general description of the allegations of sexual harassment, including the identities of the parties, the conduct allegedly constituting the policy violation, and the date and location of the alleged incident, if known;
- A general explanation of the response procedures;
- A statement that the Complainant is presumed to have made the Formal Complaint in good faith;
- A statement that the Respondent is presumed not responsible and that a determination of responsibility will be made at the conclusion of the process;
- Information about a party's right to have an at2 (oc)-2 mpl aah (on)0.6 (of)6.6 (t)6.h t oi t ak5pgedly 5C6.5 (g

G. Determination of Whether to Follow the Formal Process or Alternative Resolution

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B. Structure of Alternative Resolution Process

After parties have been provided with Notice, any party who wishes to pursue the Alternative Resolution Process to address Title IX-based sexual misconduct must provide voluntary, written consent to the process.

The structure of the Alternative Resolution Process will depend on the facts and circumstances of the situation. The Response Manager will meet with the Reporting Party/Complainant to review and consider available options to address the alleged misconduct using alternatives to the Formal Process. The Alternative Resolution Process may include one or more of the following:

- acceptance of responsibility by and disciplinary sanctions against the Responding Party/Respondent either before or following the 4.8 (i)591 (4.8 (i) (e)-2 (or)8.3 (f)6.6 (ol)-1.25)-1T A1hvAols

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In matters of non-Title IX-based sexual misconduct in which either or both parties are students, the Response Manager will review the Formal Complaint and make a determination, as to whether suspension or expulsion are possible outcomes if a determination of responsibility is made. If suspension or expulsion are not possible outcomes, the process will conclude with the determination of responsibility by the Investigator(s). If suspension or expulsion are possible outcomes, the process will conclude with the live hearing. In all matters, the appeal process outlined below is available to all parties.

4. N C

The Response Manager will provide a written notice of investigation to the Complainant and Respondent pursuant to section IV.F. above. Investigator(s) If the Complainant or Respondent have concerns that an assigned Investigator has a conflict of interest, they must notify the Response Manager within two (2) working days of their receipt of the notice of investigation.

5. O M M

the Investigator(s). Additionally, parties have the opportunity to identify or provide inculpatory or exculpatory evidence whether from a party or other source.

- Investigator(s) Determine Relevance of Evidence During Investigation. The Investigator(s) have discretion to determine the relevance and significance of any evidence collected. The Investigator(s) must gather evidence directly related to the allegations, whether or not such evidence will be relied on. In general, Investigator(s) will not give weight to statements as to any party's general reputation for any character trait. The Investigator(s) will generally only interview witnesses whom the Investigator(s) determine are likely to have factual information related to the investigation. Witnesses generally cannot participate in the investigation process solely to speak about a party's or another witness's character unless it is directly related to the allegations.
- Investigator(s) Make Credibility Determinations Regarding Witnesses During Investigation. The Investigator(s) will make determinations regarding the credibility, or perceived truthfulness, of all parties, including witnesses. Such determinations will not be based on a person's status as a Complainant/Reporting Party, Respondent/Responding Party, or witness.
- Investigator(s) Have Discretion to Seek Additional Evidence. The Investigator(s), in their discretion, may:
 -

for a policy violation and will be considered only in limited circumstances. For example, evidence of consent to sexual contact on one occasion will not, by itself, be used to demonstrate consent on a subsequent occasion. However, if the question being determined is whether consent was given, information about the manner and nature of communication between the two parties related to sexual contact in prior sexual encounters involving the two parties may be deemed relevant to the determination of whether consent was given during the incident in question. Additionally, prior sexual history may be relevant if it is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant.

- Determinations of Policy Violations Involving Consent. Independent corroboration of a Complainant's testimony is not required to show lack of consent. This means, for example, d()TjEMC E1.2 (c)-0.6um(l)-1.3 (u()Tj/f (n)0.f)-3.7 (a)-1/Artifact BmCo.2 (e)-fact BMC(m)2.3 (a)fe,c

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As the investigation nears its end, the Investigator(s) will provide written notice to the Complainant and Respondent of the pending close of the investigation and a final deadline by which additional evidence or information must be submitted for consideration by the Investigator(s).

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whether the Respondent is responsible or not responsible for violating the policy. If the allegations concern non-Title IX-based sexual misconduct for which suspension or expulsion are potential sanctions, the Investigator(s) will make a determination using the Preponderance of the Evidence standard whether the Respondent is responsible or not responsible for violating the policy.

Final Factfinding

The Investigator(s) will prepare a final factfinding report that fairly summarizes relevant evidence and includes the Investigator(s)' recommendation or determination regarding responsibility and identifies the reasons for the recommendation or determination.

The Investigator(s) will submit the preliminary factfinding report, any response(s) by the parties, and the final factfinding report to the Response Manager and (if different) the Title IX Coordinator. The Title IX Coordinator will review the final factfinding report and other relevant materials to ensure that the report and recommendation or determination are consistent with St. Thomas

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- **H P Q**. The chair, at their discretion, will ask parties and witnesses questions determined by the hearing panel to be relevant. Parties and witnesses may refuse to answer such questions, and the hearing panel cannot draw any inference of responsibility based solely on a party's refusal to answer such questions.
- **C -Ex**. At the conclusion of the panel's questions, the parties will each have an opportunity, via their advisor, to ask the other party and any witnesses relevant questions and follow up questions, including questions challenging the credibility of a party or witness. While parties and their Hearing Advisors are not required to submit cross

- **D** **N P A . . . H** . If neither party appears for the live hearing, or both parties indicate that they do not intend to participate, the hearing panel can and should still make a determination regarding responsibility where evidence has been gathered and presented to the panel.
- x. **D** **Y . . . Y** . Following the conclusion of the hearing, the hearing panel will deliberate and make a determination regarding responsibility on the basis of the preponderance of the evidence. Such determination will be made upon consideration of the relevant evidence.

The hearing panel will issue a written determination regarding responsibility. The written determination will be provided to the parties simultaneously and will include the following:

- Identification of allegations;

If the Respondent is a(n) . . .	Sanctions will be determined by or in consultation with the . . .
Undergraduate student	Dean of Students, in consultation with the Response Manager and, if different, the Title IX Coordinator, and if appropriate under the circumstances, such as matters involving students in licensure programs, the dean of the applicable college or school
Graduate or professional student	Dean of Students and dean of the applicable college or school, in consultation with the Response Manager and, if different, the Title IX Coordinator
Faculty or staff member	The member of the President's Cabinet with the most direct responsibility for the Respondent's school, college or unit and the Chief Human Resources Officer or designee, in consultation with the Response Manager and, if different, the Title IX Coordinator
Both a student and an employee	Dean of Students and Chief Human Resources Officer or designee, in consultation with the Title IX Coordinator
Not a student or employee	Title IX Coordinator, in consultation with Public Safety and any other appropriate administrators

E. Possible Sanctions

Not all policy violations are deemed equally serious offenses, and St. Thomas may impose different

- No contact order;
- Requirement to attend educational sessions or programs;
- Requirement to participate in drug and/or alcohol treatment;
- Behavioral contract;
- Disciplinary letter;
- Unpaid suspension;
- Loss of faculty or staff privilege(s);
- Demotion (staff);
- Notice of contract non-renewal (contracted staff and faculty without tenured appointment);
- Termination (staff; faculty without an annual contract); and/or
- Recommendation to President to institute dismissal for cause proceedings (faculty with an annual contract or tenured appointment).

For staff who are Respondents, the application of sanctions will be in accordance with all applicable policies and, if the employee is a member of a collective bargaining unit, the applicable labor agreement. For faculty who are Respondents, the application of sanctions will be consistent with the applicable disciplinary policies contained in the Faculty Handbook and, to the extent applicable and not superseded by the Faculty Handbook, all other applicable policies.

The identified administrators, in consultation with the Response Manager and, if different, the Title IX Coordinator, are authorized to apply any sanction or other response that they together determine to be fair and proportionate to the misconduct.

F. Notice of Outcome to Complainant and Respondent

The Response Manager will provide a written notice of outcome, by letter or email, to the Complainant and to the Respondent. The notice also will include information about the appeal process and when the outcome will be final. In matters that involved a hearing, the notice of outcome will include a copy of the hearing panel's determination of responsibility. In matters resolved without a hearing that involved sexual assault, domestic violence, dating violence, or stalking and in matters involving reports of sexual harassment in which a faculty member is a party and has asserted a defense of academic freedom, the notice of outcome will include information about the opportunity to review the final factfinding report. Any such review of the final factfinding report will be conducted a manner consistent with any applicable St. Thomas practices regarding confidentiality aal h5.8(h)0.5 (a)-1.t (o)-7.4 (n)-6.4 (f4 (e)-1(e)-2.15.8 (yr)8.3 ()0.5 (f)6.-20.2 (r)1.3 -6.4 (ty)-2.1 un)-6.5

The Response Manager also will ensure that appropriate St. Thomas administrators, faculty and/or staff members who have a need to know information about the outcome have been or are provided with such information. This may include the member(s) of the President's Cabinet responsible for a Respondent's school, college or unit, and in the circumstance of Respondents who are employees, the Respondent's supervisor.

If there is any change to the outcome following delivery of the original notice of outcome, including a change as a result of a typing error, the Complainant and Respondent will be provided notice of the change at the same time.

G. Appeal Process

1. General

Both the Complainant and the Respondent are entitled to appeal the results of the Formal Process if on one or more of the following bases:

- a. a procedural irregularity occurred that affected the outcome of the process, including but not limited to that the decision was not supported by a preponderance of the evidence or was arbitrary and capricious;
- b. the decision violated academic freedom;
- c. there has been discovery of new evidence by the appealing party that was not reasonably available at the time of the determination regarding responsibility that could affect the outcome of the matter;
- d. The Title IX Coordinator, Investigator(s), or hearing panel had a general or specific conflict of interest or bias against the Complainant or Respondent that affected the outcome.

An appeal represents a procedural safeguard for the parties. Appeals may not be brought merely because one of the parties disagrees with the outcome. Similarly, an appeal is not an opportunity to

Presented to the President's Cabinet for review and approval on 11/15/2017. The Title IX Coordinator is responsible for the appeal process.

4. O A

Within two (2) working days of receiving a notice of appeal from a party, the Title IX Coordinator will inform the other party that a notice of appeal has been submitted. For matters that went to a hearing, the other party will have up to two (2) working days following the deadline for submission of an appeal to review the request for appeal, which the Response Manager will send to the party in electronic format. For matters that did not go to a hearing, the other party will have the same amount of time and ability to review the request for appeal, though review will be subject to the

appropriate to the official's role. When the process is complete, the official records relating to the Formal Complaint or Report will be provided to the Title IX Coordinator, who will maintain such records in accordance with St. Thomas record retention requirements and applicable law for a period of at least seven (7) years. The official records include:

1. A copy of any Public Safety Report submitted related to the matter (Public Safety will maintain the original or a copy);
2. A record documenting the reason for following the Formal Process or Alternative Resolution Process.
3. Record indicating whether and when the Response Manager met with the Reporting Party and/or Responding Party and the issues covered;
4. A description of any supportive measures provided and copies of correspondence from St. Thomas to the Reporting Party and Responding Party relating to the supportive measures, including:
 - a. Documentation of the basis for concluding the response was not deliberately indifferent;
 - b. Documentation showing that the measures are designed to restore or preserve equal access to the University's education program or activity.
5. If no supportive measures are provided, documentation of reasons as to why such a response is not clearly unreasonable in light of the known circumstances.
6. Copies of any notices or summaries given to the Reporting Party and/or Responding Party;
7. In matters where the Altern.5 (m)4.3 (a)n6 0 Td.2 (on)0n2.1 (e)f9 (t)8.61ndher otnogess i tn du:6.9 ()

- k. copies of the notices of outcome provided to the parties related to the factfinding and, if any, the appeal; and
- 9. A timeline of communication with the parties.
- 10. Records of any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to education programs or activities at St. Thomas.
- 11. All materials starting August 14, 2020, used to train Title IX Coordinators, Investigators, decisionmakers, and any person who facilitates an Alternative Resolution Process.

Each official having a role in the response and resolution process may elect to send additional records to the Title IX Coordinator depending on the particular facts and circumstances. Personal notes of officials involved in the response and resolution process generally will be maintained in the sole possession of the official who took the notes according to the official's normal recordkeeping practices, any applicable St. Thomas record retention requirements and applicable law.