SECTION I. PURPOSE

The University of St. Thomas mission and convictions embody the University’s commitment to promote and protect the personal dignity and well-being of every member of the St. Thomas community. Sexual harassment, sexual assault and other forms of sexual misconduct are antithetical to that commitment. Moreover, they constitute unlawful sex discrimination. All forms of sexual misconduct are prohibited by St. Thomas.

The St. Thomas mission and convictions also embody the University’s strong commitment to academic freedom, rigorous thinking and the free and full pursuit of knowledge and truth by every member of the St. Thomas community. The prohibition on sexual misconduct is critical to and consistent with these commitments. St. Thomas cannot achieve its educational objectives in an environment in which sexual harassment or other forms of sexual misconduct are tolerated.

This policy defines the forms of sexual misconduct prohibited by the University, describes reporting options, and identifies the procedures the University will use to resolve reports of sexual misconduct. This policy reflects the University's commitment to: (1) fostering an environment where sexual misconduct is not tolerated and where all members of the community are well-informed and supported in reporting sexual misconduct, and (2) resolving reports of sexual misconduct in a prompt, impartial and equitable manner.

SECTION II. SCOPE AND APPLICABILITY

This policy applies to all St. Thomas students, employees (faculty, staff and student workers), members of the Board of Trustees, contractors, volunteers, visitors, licensees and participants in any St. Thomas study abroad or other travel program (collectively “Covered Persons”).

This policy governs conduct by or against a Covered Person, both on and off the St. Thomas campus.

SECTION III. DEFINITIONS

When used in this policy, the following terms have the following meanings:

a. **Sexual misconduct** includes sexual harassment, sexual assault (including actual or attempted non-consensual sexual contact and actual or attempted non-consensual sexual penetration), sexual exploitation, dating violence, domestic violence, and stalking, as each is defined in Section IV of this policy.

b. **Confidential Resources** are individuals who provide confidential assistance and support to individuals who have experienced or otherwise are involved in sexual misconduct situations. Confidential Resources are not required to notify a Trained Responder or law enforcement about sexual misconduct so long as the allegations do not involve the physical or sexual abuse of a child or vulnerable adult or an imminent threat to the life of any person. In
accordance with applicable law, limited categories of individuals may serve as Confidential Resources. Confidential Resources are available both on and off campus. The Confidential Resources available on the St. Thomas campus are:

- counselors in St. Thomas Counseling and Psychological Services;
- health care providers at St. Thomas Health Services; and
- clergy, or other ministers of any religion, 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, including religious or spiritual advice, aid or comfort. Clergy and other ministers are not Confidential Resources if they are not acting in the professional capacity of a pastoral counselor.

For more information on Confidential Resources, see Part V.B.1.a. Talking to a Confidential Resource.

c. A Covered Person is a St. Thomas student, employee (faculty, staff or student worker), member of the Board of Trustees, contractor, volunteer, visitor, licensee and/or participant in any St. Thomas study abroad or other travel program.

d. A Reporting Party is an individual who experiences conduct that they believe is or that may be sexual misconduct prohibited by this policy.

e. A Third-Party Reporter is an individual, other than a Reporting Party, who notifies a Trained Responder that a friend, a student, a co-worker or another Covered Person experienced conduct that the individual believes is or that may be sexual misconduct prohibited by this policy.

f. A Responding Party is an individual who is reported to have engaged in conduct that the reporter believes is or may be sexual misconduct prohibited by this policy.

g. A Trained Responder has responsibility to help ensure that St. Thomas responds appropriately to reports of sexual misconduct, in accordance with this policy and applicable law. The Trained Responders are the Title IX Coordinator, any Dean of Students staff member, any Human Resources Partner and any member of the St. Thomas Public Safety Department. Trained Responders regularly deal with reports of sexual misconduct and have received training on how to handle situations involving sexual misconduct.

SECTION IV. SEXUAL MISCONDUCT PROHIBITED

The University of St. Thomas is committed to providing a campus environment free of sex- and gender-based discrimination and harassment. Consistent with this commitment, the University prohibits sexual misconduct and will promptly address any reports of sexual misconduct by or
against a Covered Person. Use of alcohol or other drugs does not excuse behavior that violates this policy.

Other forms of sex- and gender-based discrimination are addressed by separate University policies, including but not limited to the Equal Opportunity Statement and Notice of Nondiscrimination. In addition, St. Thomas maintains a separate Consenting Relationships Policy applicable to students, faculty and staff that, depending on the circumstances, prohibits or strongly discourages romantic, intimate or sexual relationships involving persons of unequal power, even when consent is present. Covered Persons are expected to comply with all applicable policies.

A. Behavior that Constitutes Sexual Misconduct

1. Sexual Harassment

Sexual harassment is conduct that has all of the following elements:

- The conduct is unwelcome.
- The conduct is based on gender, sex or sexual orientation.
- The conduct unreasonably interferes with, denies or limits someone’s ability to participate in or benefit from St. Thomas employment, educational programs and/or activities.

Sexual harassment includes both verbal and/or physical conduct. Sexual harassment can be between people of the same gender or between people of different genders. Whether conduct constitutes sexual harassment under this policy will be determined based on the facts and circumstances. A single incident of conduct may constitute harassment depending on the facts and circumstances. In many cases, however, a finding of harassment will require a pattern of unwelcome conduct.

Examples of sexual harassment may include, but are not limited to:

- Punishing a refusal to comply with a sexual request.
- Offering a benefit (such as a grade, promotion or athletic participation) in exchange for sexual favors or other verbal or physical conduct of a sexual nature.
- 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 also are considered forms of sexual assault.

a. Sexual Assault: Non-Consensual Sexual Contact

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 non-consensual sexual contact under this policy also may constitute criminal sexual misconduct under Minnesota law. See Minnesota Statutes Section 609.341 et seq.

b. Sexual Assault: 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 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.

Activity that constitutes non-consensual sexual penetration under this policy may also constitute criminal sexual misconduct under Minnesota law. See Minnesota Statutes Section 609.341 et seq.
c. Consent

Consent is clear conduct or words that indicate a person freely agrees to engage in a sexual act at the time of the act, subject to the following:

- In order to give consent, one must be of legal age.
- Consent must be knowing and voluntary.
- Silence or failing to resist a sexual act does not constitute consent. Lack of a negative response does not constitute consent. Consent is a freely given “yes” (through words or conduct), not the absence of “no.”
- A current or previous relationship does not imply consent to a sexual act.
- A person who is asleep or unconscious cannot consent to a sexual act.
- Consent may not be obtained through threats or coercion.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity. A person who would like to initiate a new form of sexual activity is responsible for obtaining consent for that form of sexual activity.
- Consent, once given, may be withdrawn at any time. Withdrawal of consent must be clearly communicated through words or conduct. When consent is withdrawn, the sexual activity must stop.
- Consent is not effective if a person knows, or reasonably should know, that the other person is incapacitated, regardless of the reason for incapacitation. (See Incapacitation below).

Although consent does not need to be verbal, verbal communication is the most reliable way to ask for and determine whether consent has been given. The University’s definition of consent is an affirmative consent standard.

d. Incapacitation

Incapacitation is the inability to understand the facts, nature or extent of the sexual situation. Stated another way, a person is incapacitated if the person cannot understand the “who, what, when, where, why or how” of the sexual situation. Incapacitation may result from a mental or physical disability or injury, the voluntary or involuntary use of alcohol or other drugs, or other causes. In addition, a person is incapacitated for purposes of this policy if the person is "mentally impaired" as defined by Minnesota law. Under Minnesota law, a person is "mentally impaired" if, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, the person lacks the judgment to give reasoned consent to sexual contact or sexual penetration. See Minnesota Statutes Section 609.341.

Alcohol and other drug use may cause incapacitation. Incapacitation does not describe the mere fact of consuming alcohol or using other drugs. Rather, it describes one of several levels along a continuum of effects of alcohol or other drug use. Specifically, incapacitation describes a level of effect of alcohol or other drug use that is more severe than impairment, being under the influence, drunkenness or intoxication generally, and that is less severe than alcohol poisoning or overdose, which may lead to coma or death.

Whether and how quickly a person moves from a state of general impairment, drunkenness or intoxication to a state of incapacitation due to alcohol or other drug use varies from person to person, based on a number of factors. These factors may include, without limitation, the rate, timing
and amount of alcohol consumption or other drug use, the person's physical size, genetics, whether the person consumed food prior to or while consuming/using the alcohol or other drug, whether the person consumed non-alcoholic beverages along with the alcohol, and whether a person is taking medication.

Under this policy, the determination of whether a person is incapacitated for purposes of determining responsibility for sexual misconduct, will be based on all the facts and circumstances. Due to the differing factors and combinations of factors that may cause a person to become incapacitated, the determination of whether a person is incapacitated should not be based solely on the number of drinks or drugs a person consumes.

For purposes of determining alcohol- or drug-related incapacitation under this policy, it is irrelevant whether the alcohol or other drug use was voluntary or involuntary. In addition, as noted earlier in this section, use of alcohol or other drugs does not excuse behavior that violates this policy.

**Warning Signs That a Person May be Incapacitated or May be Approaching Incapacitation**

Common signs that should alert a reasonable person that another person *may* be incapacitated or approaching incapacitation due to alcohol or other drug use may include, without limitation:

- Impaired control over physical movements and/or loss of coordination (for example, stumbling, swaying, loss of balance, shaky equilibrium, or difficulty walking or standing);
- Significant confusion regarding circumstances or surroundings (for example, lack of awareness of where one is, how one got there, or who one is with);
- Impaired ability to effectively communicate for any reason (for example, slurred speech, difficulty finding words);
- Repeating the same story or statement multiple times without apparent awareness of the repetition;
- Inability to dress/undress without assistance;
- Inability to perform physical or cognitive tasks without assistance;
- Bloodshot, glassy or unfocused eyes;
- Vomiting; 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.

**e. Coercion**

Coercion is conduct, including intimidation and express or implied threats of physical, emotional or other harm, that is employed to compel someone to engage in sexual activity. Coercion may be physical or verbal. Consent may not be obtained through coercion.

Examples of coercion may include, but are not limited to:

- bullying behavior related to sexual activity or sexual behavior;
• causing the deliberate intoxication or impairment by drugs or alcohol or other drugs of another person for the purpose of engaging in sexual activity;
• conditioning an academic benefit or employment advantage on submission to sexual activity;
• threatening to harm oneself if another does not engage in sexual activity; and
• threatening to disclose sensitive information if the other party does not engage in sexual activity.

In assessing whether coercion was used, the frequency, duration and intensity of the pressure applied will be taken into consideration. Unwelcome pressure for sexual activity that does not rise to the level of coercion may meet the definition of sexual harassment.

f. Force

Force means the infliction, attempted infliction or threatened infliction of bodily harm or the act or threat of any other crime, violent activity or wrongdoing. Force may include the use of physical violence, threats, or intimidation (implied threats). Examples of force include but are not limited to:

• punching, slapping, kicking or pushing;
• restraining another person;
• strangulation;
• brandishing or using any weapon;
• threats to harm a person physically; and
• blocking or preventing access to an exit.

3. Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for the person’s own advantage or benefit or to benefit or advantage anyone else and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

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

• Unauthorized sharing or distribution of digital, video, audio, electronic, visual or other similar image or recording of nudity or sexual activity.
• 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 non-consensual 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. Dating Violence

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

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

Dating violence encompasses a broad range of behaviors. Examples of dating violence may include, but are not limited to:

• Physical harm, bodily injury or assault, including sexual assault.
• Destruction or vandalism of personal property.
• Threats of violence towards the victim, other individuals or animals.

For purposes of this policy, dating violence also includes a pattern of behavior used to coerce, dominate or isolate one’s current or former partner in an intimate or romantic relationship. The existence of such a pattern will be determined based on all the facts and circumstances. Examples of behaviors that may be part of such a pattern include, but are not limited to:

• Emotional or psychological abuse.
• Preventing a partner from seeing family or friends.
• Pressuring a partner to quit job or activities.
• Attempts to sabotage a partner’s housing, job, education, or club or other organizational involvement.
• Transferring into a partner’s class or activities to monitor their behavior.
• Economic coercion or excessive monitoring of a partner’s spending.
• Denying a partner’s use of or access to owned or shared assets.

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 cohabiting with or has cohabited 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 garbage, following the victim, or contacting the victim's friends, family, work or neighbors.

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 a Trained Responder 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. On-Campus Emergencies

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.

In Rome, dial 113 from the nearest telephone.

2. Off-Campus Emergencies

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

In Rome, 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. Where to Make a Report

a. Talking to a Confidential Resource

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.

2. Reporting to Law Enforcement

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. The University 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 assistance to the Reporting Party and police in obtaining, securing and maintaining evidence in connection with sexual misconduct allegations. At the request of the Reporting Party, St. Thomas will share data related to the reported incident with police conducting a criminal investigation to the extent permitted by student data privacy laws.

a. Reporting to St. Thomas

Reports of an incident or allegation of sexual misconduct by or against a Covered Person may be made to the University by contacting a Trained Responder (the Title IX Coordinator, the Dean of Students Office, a Human Resources Partner or the St. Thomas Public Safety Department). Reports may be made directly using the contact information in Section VII or on-line through the Title IX website. Trained Responders will provide information and assistance to Reporting Parties and
b. **Anonymous Reporting Option**

Any individual may make an anonymous report of sexual misconduct to the University, and may do so without disclosing the reporter's name or the names of the parties to the incident, and without requesting any action. Individuals considering anonymous reporting should be aware that under Minnesota law, St. Thomas is not obligated to investigate a report made anonymously, and anonymous reporting often hinders the University's ability to investigate and respond to the incident, depending on the extent of information provided to St. Thomas. Anonymous reports often contain insufficient information to follow up with the parties involved, resulting in insufficient evidence to complete a thorough investigation. Accordingly, St. Thomas strongly urges individuals to report directly to a Trained Responder.

Anonymous reports may be made by submitting the designated form on the University's [Title IX website](#). Anonymous reports do not fulfill the reporting obligations of faculty, staff, or members of the Board of Trustees, as set forth in Section V.C.1.

Anonymous reports are received by the Title IX Coordinator, who will determine appropriate next steps, including whether there is sufficient information to conduct an investigation, individual or community remedies as appropriate, and compliance with the University's obligations under the Clery Act.

3. **When to Make a Report**

St. Thomas encourages Reporting Parties to make a report of sexual misconduct as soon as possible. Notifying a Trained Responder, Confidential Resource, law enforcement or other support resources identified in Section VII promptly after sexual misconduct occurs helps assure the preservation of evidence. It is best for any physical evidence to be collected immediately, ideally within the first 24 hours after the incident occurs. Prompt notice and the preservation of evidence makes it easier to investigate and respond appropriately to the situation.

Reporting Parties are urged to notify St. Thomas of an incident regardless of whether the Reporting Party knows the identity of the Responding Party. If the Reporting Party does not know the identity of one or more Responding Party at the time of the incident or notice to St. Thomas and later learns the Responding Party's identity, the Reporting Party should notify St. Thomas of the Responding Party's identity as soon as possible.

If a report is made more than one (1) calendar year after an incident, the University's ability to respond using the resolution procedures in [Appendix A](#) may be limited because as time passes, evidence and witnesses may become unavailable and Responding Parties may leave St. Thomas, making it difficult for St. Thomas to respond in an effective and equitable manner. Incidents 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.
4. Considerations When Making a Report
   
a. Confidentiality

Reporting Parties may discuss incidents of sexual misconduct in complete confidence with a Confidential Resource. Other St. Thomas faculty and staff, other than student workers, who become aware of incidents or allegations of sexual misconduct by or against a Covered Person have a responsibility to contact a Trained Responder (as defined in Section III above), even if the Reporting Party requests confidentiality.

Trained Responders understand and seek to honor confidentiality requests to the extent they can do so while still fulfilling the University's commitments and obligations relating to reports of sexual misconduct. If a Reporting Party requests confidentiality or does not want St. Thomas to investigate or respond to the incident or allegation, St. Thomas will weigh the request against the seriousness of the alleged misconduct and the University's commitment to address and prevent recurrence of sexual misconduct. This determination will be made by the Title IX Coordinator or designee. The determination may not be made by other Covered Persons.

If St. Thomas determines it has an obligation to investigate and address the incident or allegations, St. Thomas will maintain confidentiality to the extent reasonably possible consistent with a prompt, equitable and impartial investigation and response and resolution, and consistent with applicable laws and St. Thomas policies. In addition, St. Thomas will consider and take steps to address safety concerns. In all cases, the individuals investigating and responding to incidents or allegations of sexual misconduct will share information about the incident or allegation, investigation and response within and outside St. Thomas on a “need to know” basis. However, complete confidentiality generally will not be possible due to the University's legal obligation to respond. Accordingly, Reporting Parties who are not sure they wish to initiate the response and resolution procedures should contact a Confidential Resource before sharing the information with another Covered Person or a Trained Responder.

b. Support Resources

St. Thomas and outside organizations offer numerous resources to support individuals who have experienced sexual misconduct. This includes sexual assault advocacy services, which are available through outside organizations. In addition, victims of criminal conduct have rights under the Crime Victims Bill of Rights contained in Chapter 611A of the Minnesota Statutes, including but not limited to the right to assistance from the Crime Victims Reparations Board and the commissioner of public safety. Links to additional information about these rights, and contact information for these support resources, is contained in Section VII of this policy.

c. Amnesty

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.

d. Protection from Retaliation

As set forth below, St. Thomas prohibits retaliation against any individual who makes a good faith report of sexual misconduct.
C. Reporting by St. Thomas Faculty, Staff and Other Covered Persons

1. Required Reporting by St. Thomas Faculty, Staff and Trustees

All St. Thomas employees who are not student workers, and all members of the St. Thomas Board of Trustees, are expected to notify a Trained Responder promptly after becoming aware of an incident or allegation of sexual misconduct involving a Covered Person. This report may be made on-line but may not be made anonymously. This report helps assure that the University responds appropriately and fulfills its obligations relating to any incident.

St. Thomas employees who learn of sexual misconduct while serving as a Confidential Resource, as defined above, are not required to notify a Trained Responder. 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 a Trained Responder about information that their professional license requires them to keep confidential.

2. Reporting by Other Covered Persons Encouraged

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 a Trained Responder. 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. Clarification Regarding Public Awareness Events and Campus Surveys

The University supports public awareness events that further campus-wide education and prevention efforts. An individual’s comments about an incident or allegations of sexual misconduct at these events will not be considered a report to St. Thomas for the purpose of triggering the response and resolution procedure or a required report by faculty, staff or a member of the Board of Trustees to a Trained Responder.

In addition, St. Thomas may, from time to time, conduct surveys to gauge attitudes about sexual misconduct and awareness of campus resources. These voluntary surveys will contribute to the University’s understanding of the campus climate and student safety at St. Thomas. The disclosure of incidents of sexual misconduct in responses to survey questions will not be considered a report to St. Thomas for the purpose of triggering an investigation of a particular incident or a required report by faculty, staff or a member of the Board of Trustees to a Trained Responder.

SECTION VI. Obligations of St. Thomas Community Following Report

A. Response and Resolution Procedures

When a Trained Responder becomes aware of an incident or allegation of sexual misconduct, the Trained Responder will take steps to initiate the response and resolution procedures described in Appendix 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. In addition, the Title IX Coordinator and the officials designated in Appendix 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 by the Reporting Party or at the University's initiative, St. Thomas will assist in shielding the Reporting Party from unwanted contact with the Responding Party, in cooperation with appropriate law enforcement, consistent with Minnesota law.

B. Required Reporting by St. Thomas

Under the Clery Act, St. Thomas has a duty to track and publish information about certain types of sexual misconduct and to report certain information in the University's annual Campus Security Report. Personally identifiable information is kept confidential and will not be published.

Under Minnesota law, St. Thomas has a duty to track and publish certain information about sexual assault and to report certain related statistics on its website and to the Minnesota Office of Higher Education. Personally identifiable information and other data collected by St. Thomas for purposes of complying with this reporting requirement is kept confidential, will not be published except in accordance with Minnesota law, and otherwise is available only to St. Thomas employees whose work assignments reasonably require access.

St. Thomas also is required to issue timely warnings for reports of incidents it becomes aware of that pose a serious and continuing threat to members of the campus community. St. Thomas does not disclose personally identifiable information of Reporting Parties in such warnings, while making every effort to provide enough information for community members to make decisions to help ensure their safety.

C. Treatment with Dignity

Under no circumstances may St. Thomas employees suggest that a Reporting Party is at fault for the sexual misconduct they report or that the Reporting Party should have acted in a different manner to avoid being a victim of sexual misconduct. Moreover, consistent with the University’s convictions, all members of the St. Thomas community are expected to treat Reporting Parties, Responding 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.
misconduct in good faith or for participating, in good faith, in a factfinding investigation 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

B. Trained Responder Contact Information

*Trained Responders are not Confidential Resources. On- and off-campus Confidential Resources are listed in Section VII.C and VII.E below. Trained Responders seek to honor confidentiality requests to the extent they can do so while still fulfilling the University's commitments and obligations. See Section V.B.3 above.

Title IX Coordinator
Danielle Hermanny
Room 106F, Aquinas Hall
2115 Summit Ave
Saint Paul, MN 55105
(651) 962-6882
dhermanny@stthomas.edu

Dean of Students
Room 241, Anderson Student Center
(651) 962-6050
Dean of Students Website

Human Resources 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
Room 356, Murray-Herrick Campus Center
(651) 962-6780
Counseling and Psychological Services Website

Health Services
Brady Residence Hall, Lower Level
(651) 962-6750
Health Services Website

D. Other Campus Support Services and Resources

Sexual Assault Response Information

University of St. Thomas Office for Campus Ministry

University of St. Thomas Employee Assistance Program

Students seeking accommodations for a disability in connection with the response and resolution procedures may contact Disability Resources.

E. Off-Campus Resources

Police
St. Paul or Minneapolis: 911
Rome: 112

Sexual Assault Nurse Examiners (SANE) available at area hospitals (Confidential Resources)

Regions Hospital (Confidential Resource)
640 Jackson St. St Paul, Minnesota 55101
(651) 254-3584

United Hospital Emergency Room (Confidential Resource)
333 North Smith Avenue
St. Paul, Minnesota 55102
(651) 241-8755 (direct connection to the Emergency Room)
**Hennepin County Medical Center Emergency Room** (Confidential Resource)
701 Park Avenue
Minneapolis, Minnesota 55415
Sexual Assault Resource Service: (612) 873-5832

**Outside the United States:**

SASHAA: Sexual Assault Support and Help for Americans Abroad (Confidential Resource)
24-hour toll-free hotline: In US dial 1-866-879-6636
In Rome dial 800-172-444 then 866-879-6636
See [SASHAA website](http://sashaaward.org) for other country specific direct access codes or to use live chat option

**Sexual Assault & Sexual Harassment**

**RAINN** *(Rape, Assault, and Incest National Network)* (Confidential Resource)
Available anywhere in the United States
1 (800) 656-6673
24-hour hotline; free and confidential
Online Chat available on RAINN’s website

**SOS: Sexual Offense Services of Ramsey County** (Confidential Resource)
St. Paul, Minnesota
(651) 266-1000
24-hour hotline; free and confidential

**Sexual Violence Center-SVC** (Confidential Resource)
Minneapolis, Minnesota
(612) 871-5111
24-hour hotline; free and confidential

**Dating Violence, Domestic Violence & Stalking**

**Domestic Abuse Intervention Project** (Confidential Resource)
St. Paul, Minnesota
(651) 645-2824
24-hour crisis line; free and confidential

**Day One Services** (Confidential Resource)
1 (866) 223-1111
Crisis support, information on shelters, safety planning, and orders for protection

**Cultural & Community Specific Support Services**

**OutFront Minnesota**
24-hour anti-violence crisis support line for LGBTQ victims
1-800-800-0350, option 3

**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](http://example.com) 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 filing orders for protection

Domestic Abuse Service Center (for victims of domestic violence and dating violence)
Hennepin County Government Center
Rm. #A0650 (lower level)
300 S. 6th Street
Minneapolis, MN 55487
(612) 348-5073

Minnesota Office of Justice, Crime Victims Programs
Monday - Friday, 8:00 AM – 4:30 PM
(651) 201-7300 or 888-622-8799, ext. 1 for financial help
(800) 247-0390, ext. 3 for information and referral
(651) 205-4827 TTY

Ramsey County Victim/Witness Services
Ramsey County Attorney’s Office
(651) 266-3222

Hennepin County Victim Services
Hennepin County Attorney's Office
(612) 348-4003

Law Help MN
Legal information on a variety of sexual assault issues

Volunteer Lawyers Network
(612) 752-6655

Minnesota State Bar Association Find a Lawyer Directory

U.S. Embassy in Rome
Telephone: 06 46741

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

Sexual Misconduct Policy
Policy number: 109
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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

Date of initial publication: June 10, 2014
Date of latest revision: January 19, 2017

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 the University 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, non-discriminatory 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.

SECTION I. DEFINITIONS

The definitions used in the University of St. Thomas Sexual Misconduct Policy (“policy”) also apply to these procedures, along with the additional definitions set forth in these procedures.

a. 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 the Alternative Resolution Procedure or may be converted to a Complaint by the Reporting Party or the Title IX Coordinator in order to be resolved through the Formal Process.

b. A **Complaint** is a formal written statement, on a form available from the Title IX Coordinator, that identifies the alleged incident(s) of sexual misconduct and generally is used to initiate the Formal Process. The Complaint must include the name of the Responding Party, if known, and be signed or affirmed (through e-mail or other written document) by the Reporting Party or by the Title IX Coordinator. A Complaint must be submitted in order to initiate the Formal Process.

c. The **Response Manager** is the designated St. Thomas employee responsible for timely coordinating the University’s response to a Report or Complaint, managing the response and resolution process in accordance with the policy and these procedures, and determining interim measures. The Response Manager also is available to answer questions the parties may have about the policy or these procedures. The Response Manager is the Title IX Coordinator or a designee of the Title IX Coordinator.

d. A **Process Advisor** is a designated St. Thomas employee who assists a Reporting Party and/or Responding Party by answering questions about the policy or these procedures and by providing information about available support resources. Process Advisors are assigned to students who are Reporting Parties or Responding Parties. Process Advisors are available on request to employees. The Process Advisor is not a Confidential Resource and may share information with the Response Manager and other University officials on a need-to-know basis. For confidential support resources, a party should contact Counseling and Psychological Services, Health Services, or an off-campus confidential support resource.

e. The **Formal Process** is the response and resolution process described in Section V below.
f. The Alternative Resolution Process is the response and resolution process described in Section VI below and is an alternative to the Formal Process.

g. Factfinder(s) are internal or external investigator(s) assigned under the Formal Process. The role of the Factfinder(s) is to conduct a prompt and impartial investigation of a Complaint and to make a determination regarding whether the Responding Party is responsible for a policy violation.

h. Preponderance of the Evidence is the standard used by the University to determine whether a Responding Party is responsible for a policy violation. The Preponderance of the Evidence standard also is referred to as a “more likely than not” standard. The standard requires the Factfinder(s) to consider the relevance and reliability of all the evidence, facts and circumstances known to the Factfinder(s) and to determine whether it is more likely than not that the Responding Party is responsible or not responsible for a policy violation.

SECTION II. SCOPE AND APPLICATION

These procedures will be initiated when a Trained Responder becomes aware of a Report or Complaint of sexual misconduct:

- where the Reporting Party and the Responding Party are both Covered Persons; or
- where the Reporting 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 activity.

In other situations where a Reporting Party or Responding Party is a Covered Person, the Title IX Coordinator may determine, in the Title IX Coordinator’s discretion, whether these procedures or another process is the best way to address the Report or Complaint.

If the Title IX Coordinator is notified of allegations of sexual misconduct that, even if true, would not rise to the level of a policy violation, these procedures do not apply, and the Title IX Coordinator will handle the matter in the Title IX Coordinator’s discretion, consistent with any other applicable St. Thomas policies and procedures.

SECTION III. CONFIDENTIALITY

Reporting Parties and Responding Parties have the right to speak or otherwise share information about Reports and Complaints by or against them and the related response and resolution process. However, both parties must ensure that their communications are consistent with the anti-retaliation provision of the policy, other applicable St. Thomas policies including but not limited to student conduct policies, and any agreements between the parties or with St. Thomas.

Other individuals involved in the response and resolution process, including witnesses, support persons, St. Thomas employees and other Covered Persons who are not parties, are expected to maintain the confidentiality of information related to Reports and Complaints and the response and resolution process consistent with all applicable St. Thomas policies. St. Thomas employees may communicate such information only to individuals who have a legitimate need to know the information in connection with their work responsibilities or their role in the response and resolution process.
SECTION IV. INITIATION OF RESPONSE AND RESOLUTION PROCESS

Trained Responders are responsible for initiating the response and resolution process promptly upon their receipt of a Report or Complaint of sexual misconduct.

A. Notice to the Title IX Coordinator and Response Manager

The Trained Responder (if not the Title IX Coordinator) must promptly notify and share the Report or Complaint with the Title IX Coordinator. The Title IX Coordinator will serve as the Response Manager for the Report or Complaint or will appoint a trained designee to serve as the Response Manager and will share the Report or Complaint with the Response Manager. Potential conflicts of interest that are known to the University and the ability of an individual to timely and adequately manage the procedures for a particular matter will be considered in designating a Response Manager.

B. Initial Meeting with the Reporting Party

Promptly following receipt of a Report or a Complaint, the Response Manager or a designee of the Response Manager will offer to meet with the Reporting Party. During any such meeting, the Response Manager will do the following:

1. Gather information from the Reporting Party as necessary to reasonably advise or support the Reporting Party with respect to the response and resolution process. Assure that the Reporting Party is given the opportunity to review the University’s record of the Reporting Party’s description of the incident.

2. Inform the Reporting Party about available resources to support the Reporting Party. In particular, the Response Manager or designee will provide information about:

   • resources on seeking medical treatment and information on preserving forensic and other evidence;
   • the Reporting Party’s right to contact law enforcement and pursue criminal and/or civil remedies outside St. Thomas and available assistance from St. Thomas in making a report to law enforcement;
   • immediate support and assistance available through on- and off-campus resources, including contact information for campus and local advocacy, counseling, health, mental health and legal assistance services;
   • the availability of supportive measures from the University regardless of whether the Reporting Party chooses to participate in the University’s response and resolution process; and
   • information about the opportunity to seek a harassment restraining order or order for protection from a Minnesota court in appropriate circumstances.
3. Review the policy and these procedures and available resources with the Reporting Party, specifically noting:

   • the Reporting Party’s options to pursue the Formal Process or the Alternative Resolution Process, regardless of whether the Reporting Party made a report to law enforcement;
   • the confidentiality provisions of the policy;
   • in student cases, the University’s general practice regarding parental notification, noting that parents and guardians are generally not notified about the investigation without student consent and encouraging students to inform their parents/guardians about the investigation;
   • that participation in the response and resolution process is voluntary and noting the potential consequences of non-participation;
   • the timing and deadlines for taking action under the policy;
   • the prohibition on retaliation for good faith reporting of sexual misconduct allegations and for participating in the response and resolution process;
   • the ability of the University to put in place interim actions to protect the parties and the community; and
   • the opportunity for the Reporting Party to request additional reasonable protections, if the Reporting Party wishes to change academic, living, transportation, working or other situations within the reasonable control of St. Thomas.

4. Discuss whether the Reporting Party has concerns about any potential conflicts of interest or bias that could affect the process.

5. Invite and address the Reporting Party’s questions about the policy and the response and resolution procedures.

6. Ask the Reporting Party how the Reporting Party wishes to proceed. Notify the Reporting Party that if the Reporting Party chooses not to pursue the Alternative Resolution Process or Formal Process, St. Thomas will consider whether to take action independently, and that if the Reporting Party chooses to pursue the Alternative Resolution Process, St. Thomas will assess whether to initiate the Formal Process independently based on the facts and circumstances known to St. Thomas.

7. Discuss any anticipated follow-up the Reporting Party might expect from St. Thomas.

C. Initial Assessment and Action to Protect the Community

After receiving a Report or Complaint, the Response Manager will make an initial assessment of the reported information, including the nature and circumstances of the Report or Complaint. The Response Manager may consult with other University officials as appropriate and may seek to gather additional information to assess possible interim actions and next steps.

1. Interim Action Determined by the University

The Response Manager, in consultation with appropriate administrators, will consider whether interim actions are reasonably necessary or appropriate to protect the parties and the broader St. Thomas community, pending completion of the response and resolution process. If the Response
Manager and appropriate administrators determine that interim actions are reasonably necessary and appropriate, they are authorized to take or direct such action.

Examples of interim actions include, without limitation:

- Establishing a “no contact” order prohibiting the Responding Party and Reporting Party from communicating with each other.
- Prohibiting a Responding Party from physically entering or being on St. Thomas property.
- Prohibiting a Responding Party from participating in St. Thomas-sponsored events.
- Changing a Reporting Party's or Responding Party's on-campus residence or prohibiting a Responding Party from residing in a St. Thomas residence.
- Changing a Reporting Party's or Responding Party's student or employee status, in consultation with appropriate administrator(s).
- 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.

Interim actions will be determined on a case-by-case basis. Either party is free to raise concerns regarding interim actions with the Response Manager. The Response Manager may modify or initiate new or different interim action 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.

2. Additional Measures During and After the Process

In addition to any interim actions initiated by St. Thomas, the Reporting Party may request additional reasonable measures to help shield the Reporting Party from unwanted on-campus contact with the Responding Party during and after the response and resolution process, even in cases where there was insufficient evidence to establish responsibility of the Responding Party for violating the policy. Such reasonable measures may include a mutual no-contact order from St. Thomas or assistance to the Reporting Party in transferring to alternative classes or University housing, when such classes or housing are available and the transfer is feasible. The Responding Party may request similar reasonable measures to shield the Responding Party from unwanted on-campus conduct by the Reporting Party. The Response Manager will consider and make determinations with respect to such requests.

3. Consideration of Potential Academic Freedom Issues as Part of Initial Assessment

If the Responding Party is a faculty member alleged to have engaged in sexual harassment of the Reporting Party, the Response Manager will consider, in consultation with the dean of the respective
school or college (or, if the dean has a conflict of interest, with the provost or the provost’s designee), whether there is a perceived or potential conflict between (a) the limitations on conduct and communications implied by the definition of sexual harassment under the policy and (b) the principles of academic freedom as defined by the AAUP Principles and Comments.

D. Appointment of Process Advisor

Next, in cases in which the Reporting Party is a student, the Response Manager will appoint a Process Advisor. If the formal resolution process is followed, the Response Manager will also appoint a Process Advisor for the Responding Party.

The Process Advisor for the Reporting Party and Responding Party may be the same person or different people, depending on the circumstances. The Response Manager may also serve as the Process Advisor depending on the circumstances.

An employee who is a Reporting Party may request appointment of a Process Advisor. When a Reporting Party or Responding Party is a faculty member and a Process Advisor is requested, the Response Manager will designate another faculty member as the Process Advisor if a trained faculty member is available to serve and does not have a conflict of interest. If no trained faculty member is available, the Response Manager will ask the provost to appoint a faculty member to serve as a consultant to the appointed Process Advisor.

E. Determination of Whether to Follow the Formal Process of Alternative Resolution Process

The Response Manager will determine whether to follow the Formal Process or the Alternative Resolution Process and will document this determination.

The Response Manager will consider the perspective of the Reporting Party. If the Reporting Party requests the Formal Process, the Formal Process generally will be used unless the Response Manager determines that, based on the facts and circumstances, an alternate process or procedure is more appropriate. If the Reporting Party requests the Alternative Resolution Process, the Response Manager will consider the Report and any additional information available to the Response Manager. The Response Manager will consider whether the Alternative Resolution Process or any particular components of the Alternative Resolution Process are inappropriate, and whether the Formal Process should be used given the nature of the allegations or other circumstances. The Response Manager also may gather additional information if needed in order to make this determination. Based on this assessment, St. Thomas may, in its sole discretion, require the initiation of the Formal Process.

SECTION V. FORMAL PROCESS

The Formal Process generally is used when: (1) a Reporting Party requests that the University investigate and adjudicate allegations of sexual misconduct using the Formal Process and files a Complaint; (2) St. Thomas determines that use of the Formal Process is necessary based on the totality of the circumstances as described in Section IV.E; or (3) either the Reporting Party or the Responding Party requests or the Title IX Coordinator determines that the Alternative Resolution Process end and the Formal Process be used.
A. Equitable Process for Reporting Party and Responding Party

In the Formal Process, the Reporting Party and Responding Party can expect the following:

- equitable procedures that provide both parties with a prompt and impartial investigation and resolution conducted by officials who receive annual training on conduct prohibited by the policy;
- an equitable opportunity to identify relevant witnesses and other evidence and to suggest possible questions to be asked of witnesses during the Formal Process;
- an opportunity to meet with the Factfinder(s) and present information on their own behalf, including written and oral statements and physical exhibits;
- an opportunity to receive similar and timely access to information considered relevant by the Factfinder(s), consistent with the Family Educational Rights and Privacy Act, and to respond;
- timely notice of meetings;
- the opportunity to have a support person of the individual's choice, who is not a fact witness, accompany the individual to meetings that are part of the response and resolution process. See Part V.C for additional information;
- the opportunity to determine when and whether to provide or repeat a description of an incident of reported sexual misconduct, and to be informed of the consequences, if any, of not providing or repeating such a description. A decision not to provide or repeat a description of an incident involving reported sexual misconduct may impact the outcome of the investigation because the determination regarding responsibility made by the Factfinder(s) will be based on a Preponderance of the Evidence.

B. Timing

St. Thomas will strive to conclude factfinding and make a determination regarding responsibility as soon as possible and within 60 calendar days of a Complaint being filed. The time frame for particular matters may vary depending on the complexity of the factfinding investigation and other factors, and additional time may be necessary in some investigations. In addition, temporary extensions to the timing requirements may be necessary due to factors like a witness being absent from campus, campus offices being closed, or for other reasonable cause. If factfinding is delayed due to law enforcement gathering evidence, St. Thomas will resume its factfinding when law enforcement has finished collecting evidence or earlier, as permitted by law enforcement.

Appeals will be conducted within the timeframe set forth in Section V.E.

All extensions and postponements of the time limits in these procedures must be authorized by the Title IX Coordinator or designee and will be no longer than reasonably necessary. The Reporting Party and Responding Party will be provided timely notice of any timing extension or postponement that will delay the notice of outcome, including the reason for such extension and postponement.

C. Role of Support Person

Reporting Parties and Responding Parties may invite a support person of their choice to accompany them to meetings with University officials related to the Formal Process. The role of the support person is to support the Reporting Party or Responding Party in the response and resolution process. A support person may consult with and advise the party they are supporting, but the support person may not otherwise participate in the University’s response and resolution process.
The support person may not speak for or submit information on behalf of the party they are supporting as part of the response and resolution process. When a party is meeting with the Factfinder(s), a party may request reasonable breaks to speak with the party’s support person.

During the Formal Process, support persons may be present while the party they are accompanying reviews evidence being considered by the Factfinder(s), including, if applicable, the factfinding report(s). The support person may review these materials only to the extent they are accompanying the party and reviewing the materials with the party. Support persons must keep all information related to the matter confidential. Violations of confidentiality requirements or other forms of interference with the response and resolution process may result in disqualification of the support person.

A support person may be any person who is not a witness, such as a St. Thomas faculty or staff member, an attorney, a family member, or any other person. Support persons who are attorneys are subject to the same limitation on participation in the response and resolution process as other support persons. If a support person is an attorney, St. Thomas has the right to have its own legal counsel present for any meeting at which the attorney support person is present.

D. Steps in the Formal Process

If the Reporting Party, Responding Party or St. Thomas decides to pursue the Formal Process, the following steps will be taken.

1. Submission of Signed Complaint

The Reporting Party must submit a Complaint (as defined in Section I) to the Process Advisor, Response Manager or Title IX Coordinator. If the Reporting Party does not wish to pursue the Formal Process and St. Thomas determines to initiate the Formal Process, then the Title IX Coordinator may prepare, sign or affirm, and submit the Complaint.

2. Assignment of Factfinder

The Response Manager will appoint one or more Factfinders.

Factfinder(s) may be trained St. Thomas employee(s) or trained external investigator(s), as determined in the sole discretion of the Title IX Coordinator. The Title IX Coordinator maintains a list of qualified Factfinders; Factfinders need not be on this list so long as they have received appropriate annual training. Before appointing the Factfinder(s), the Response Manager will consider potential conflicts of interest to ensure the appointed Factfinder(s) are capable of conducting an impartial factfinding investigation.

3. Notice to Reporting Party and Responding Party

The Response Manager will provide a written notice of investigation to the Reporting Party and Responding Party. The notice of investigation will inform the parties of the nature of the Complaint, the alleged policy violation(s) to be investigated, the name of the Factfinder(s), an estimate of the time required to complete the investigation, and any other information the Response Manager deems relevant given the particular situation. If the Reporting Party or Responding Party have concerns that an assigned Factfinder has a conflict of interest, they must notify the Response Manager within two (2) working days of their receipt of the notice of investigation.
4. Opportunity to Meet with Response Manager

The Response Manager will offer to meet individually with the Reporting Party and the Responding Party to:

- Review the notice of investigation.
- Inform the party about available resources to support the party. Ensure the party understands how to access appropriate support resources.
- Review the policy and these procedures, specifically noting:
  - the expectation of an equitable process, as described in section V.A of these procedures;
  - the timing and deadlines for action under the policy;
  - the confidentiality provisions, including, in student matters, the University’s general practice of not notifying parents and encouraging students to inform their parents; and
  - the prohibition on retaliation.
- Address the party’s questions about the policy and the Formal Process, and discuss whether the party has concerns about any potential conflicts of interest that could affect the process.
- Discuss any anticipated follow-up by St. Thomas that the parties can expect.

5. Investigation

a. Factfinding Process

The Factfinder(s) will conduct an impartial inquiry into the facts and circumstances related to the Complaint. At a minimum, the Factfinder(s) will seek to interview the Reporting Party and Responding Party. While the structure of the factfinding process may vary depending on the circumstances of each case, the process will generally include: one or more interviews of each party by the Factfinder(s), interviews by the Factfinder(s) of witnesses, review by the Factfinder(s) of other available evidence, and an opportunity for each party to review and respond to summaries of witness interviews and evidence consistent with the Family Educational Rights and Privacy Act.

b. Principles for the Collection and Consideration of Evidence

The Factfinder(s) have authority and discretion to determine the scope of the investigation and to request potentially relevant information, documentation, other materials and interviews from individuals as the deem appropriate. The Factfinder(s) have authority, at their discretion, to weigh evidence collected during the investigation, including the credibility of the parties and witnesses and the appropriateness, relevance and significance of information collected during the factfinding investigation. The following principles generally apply to the investigation process:

- **Determinations Made Based on Evidence.** The investigation is a neutral, fact-gathering process. Factfinder(s) begin an investigation with a presumption that the Complaint is made in good faith; at the same time, Factfinder(s) do not make any assumptions about what occurred or whether the Responding Party is responsible for a policy violation. Determinations regarding responsibility are based on the Factfinders’ assessment of the facts and evidence collected. The Factfinder(s) only will determine that a Respondent is responsible for a policy violation if the Factfinder(s) determine that there is sufficient evidence, by a Preponderance of the Evidence standard, to support such a finding.
• **Voluntary Participation by Reporting Party and Responding Party.** Reporting Parties and Responding Parties may choose to participate or decline to participate in the investigation. The participation of both parties is not required for an investigation to proceed. When considering whether to participate in the investigation, it is important for parties to be aware that if a party declines to participate in the investigation, the other party's version of events may be left unrefuted, and the Factfinder(s) may not have all the relevant evidence when making the determination regarding responsibility.

• **Expectation of Truthfulness.** The Reporting Party, the Responding Party, and all witnesses are expected to provide truthful information to the Factfinder(s).

• **Expectation of Timely and Prompt Cooperation.** In order to ensure completion of the investigation in a timely manner, parties are expected to make themselves available to meet with Factfinder(s) at the requested times. Factfinder(s) schedule meetings at times that do not conflict with the class schedule of student and faculty parties and make reasonable efforts to accommodate other scheduling needs of a party. In order to assure a timely process, the Factfinder(s) may deny a party's request to re-schedule meetings. If a party wishes to have a support person accompany them to meetings with the Factfinder(s), the support person is expected to arrange to be available to meet at the time designated by the Factfinder(s).

• **Ability to Identify Witnesses and Provide Evidence.** Both parties will be provided an opportunity to identify potential witnesses and to provide documents, communications (such as email or text messages), photographs, video and other evidence to the Factfinders.

• **Factfinder(s) Determine Relevance of Evidence.** The Factfinder(s) have discretion to determine the relevance and significance of any evidence collected and to include or exclude certain types of evidence. In general, Factfinder(s) will not give weight to statements as to any party's general reputation for any character trait. The Factfinders only will interview witnesses whom the Factfinder(s) determine are likely to have factual information related to the investigation. Witnesses cannot participate in the investigation process solely to speak about a party's or another witness's character.

• **Factfinder(s) Have Discretion to Seek Additional Evidence.** The Factfinder(s), in their discretion, may:
  - visit relevant locations and record observations through written, photographic or other means;
  - interview witnesses not identified by the parties; and
  - consult medical, forensic, technological or other experts when they determine that expertise will help the Factfinder(s) to achieve a fuller understanding of issues or evidence relevant to the particular investigation.

• **Opportunity to Respond to Evidence.** The Factfinder(s) will seek to provide the Reporting Party and Responding Party timely and equal opportunity to review information considered by the Factfinder(s) to be relevant to the investigation, consistent with the Family Educational Rights and Privacy Act, and an opportunity to respond to such information through written or oral statements.

• **Medical Records.** A party's medical and counseling records are confidential and are not accessible to the Factfinder(s) without the consent of the party who is the subject of the record. Parties are not required or expected to share medical records. Parties may choose voluntarily to share all or a portion of such information in the party's sole discretion. Sharing private medical information may have consequences. Parties are encouraged to speak with someone they trust, including their medical provider(s), their attorney if they
have one, their support person and/or their Process Advisor before making a decision of whether to share medical records. Reporting Parties who have filed a criminal complaint also may want to speak with the investigating agency. If a party voluntarily chooses to share information from medical or counseling records with the Factfinder(s), relevant portions of the medical records and/or a summary of those records, like other evidence, generally will be made available for the other party to review consistent with the Family Educational Rights and Privacy Act.

- **Prior Consensual Sexual History.** Evidence related to the prior consensual sexual history of either of the parties generally is not relevant to the determination regarding responsibility 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.

- **Determinations of Policy Violations Involving Consent.** Independent corroboration of a Reporting Party’s testimony is not required to show lack of consent. This means, for example, that there does not need to be an eyewitness to the sexual interaction (other than the Reporting Party or Responding Party) for the Factfinder(s) to find responsibility for a policy violation. All determinations of policy violations are made based on a Preponderance of the Evidence (“more likely than not”) standard based on all the evidence, including information provided by the Reporting Party and the Responding Party.

- **Determinations of Policy Violations Involving Incapacitation.** Incapacitation will be determined by the Factfinder(s) based on all the facts and circumstances, looking at whether the individual was able to understand the facts, nature or extent of the sexual situation and whether such condition was known or reasonably should have been known to the Responding Party. In cases where there is a question about whether the Reporting Party was incapacitated, St. Thomas will ask: (1) Was the Reporting Party incapacitated, and (2) Did the Responding Party know, or should the Responding Party reasonably have known, that the Reporting Party was incapacitated? If the answer to both questions is “yes”, and the Factfinder(s) also determine that sexual activity took place, the Factfinders will find the Responding Party is determined responsible for a violation of the policy, regardless of whether the Reporting Party expressed consent.

- **Special Considerations Applicable to Investigations Involving Certain Schools and Colleges.** Given the possible application of professional duties of confidentiality, confidential email, files and other data of designated members of the School of Law, the College of Education, Leadership and Counseling, and the School of Social Work will not be examined for content nor disclosed without the prior approval of the dean of the school or, in cases of a conflict of interest, the provost or provost’s designee.

- **Application of AAUP Principles and Comments Relating to Academic Freedom.** If the Responding Party is a faculty member alleged to have engaged in sexual harassment of the Reporting Party, and if there is a perceived or potential conflict between (1) the limitations on conduct and communications implied by the definition of sexual harassment under the policy and (2) the principles of academic freedom, the Factfinder(s) will work with the dean, provost or the provost’s designee (as applicable) to ensure the appropriate application of the AAUP Principles and Comments.
6. **Status Updates**

The Factfinder(s) will provide status updates to the Reporting Party and Responding Party at least monthly during the investigation and as necessary to alert them of any material changes in time estimates for completing the investigation.

7. **Notice of Close of Investigation**

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

8. **Review of Preliminary Factfinding Report in Certain Cases**

In matters involving reports of 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 Factfinder(s) will prepare a preliminary factfinding report upon completion of all interviews with the parties and witnesses and review of other evidence submitted. The preliminary factfinding report will contain a summary of the interview(s) with each party and witness and will identify other evidence determined by the Factfinder(s) to be relevant to the investigation.

Following preparation of the preliminary factfinding report, the Factfinder(s) will notify the Reporting Party and the Responding Party of an opportunity to review the report. The notification will inform the parties of the period of time in which the report will be available for review, how to make arrangements to review the report, and the ability to be accompanied by a support person when viewing the report. The report may be reviewed only in the presence of a University official. Any such review will be conducted in a manner consistent with any applicable University practices regarding confidentiality and privacy, including the Family Educational Rights and Privacy Act, if applicable. The parties may take notes regarding the report. Parties may not make copies, take photographs or make other recordings or images of the report. To help protect the privacy of the parties and witnesses and the confidentiality of the investigation, copies of the preliminary report will not be provided to the parties.

Following review of the preliminary factfinding report, each party may provide a written response to the report. The purpose of this response is to comment on the preliminary report and not to present additional evidence, unless it there is new evidence documented in the report that was not known to the party. Each party’s response should not exceed 2,000 words in length, unless one party requests and the Response Manager grants an opportunity for both parties to submit a longer response. The response must be submitted within three (3) working days after the first day the report has been made available for review. Any response submitted by a party will be made available for the other party and any accompanying support person to review in the presence of a University official.

The Response Manager and the Factfinder(s) will review the responses submitted by the parties, if any. Based on this review, the Factfinders, in consultation with the Response Manager, will decide whether to: (1) proceed to make a determination regarding responsibility, or (2) conduct additional factfinding. If additional factfinding will be conducted, the Response Manager will provide written notice to the Reporting Party and the Responding Party of the determination to conduct additional factfinding, the anticipated timeline for such factfinding, and the opportunity of both parties to review and respond to additional evidence collected.
9. Determination Regarding Responsibility

Upon completion of the investigation and following review of the preliminary report by the parties and any responses and additional factfinding (if any) consistent with Section V.D.8 above, the Factfinder(s) will weigh the evidence and determine, using a Preponderance of the Evidence standard (e.g. “more likely than not”), whether the Responding Party is responsible or not responsible for violating the policy.

10. Final Factfinding Report

The Factfinder(s) will prepare a final factfinding report that includes the Factfinder(s)’ determination regarding responsibility and identifies the reasons for the determination.

The Factfinder(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 determination are consistent with St. Thomas policies, procedures and practices. If the Title IX Coordinator determines that the report and determination are not consistent with St. Thomas policies, procedures and practices, the Title IX Coordinator has discretion to direct or take appropriate action.

11. Sanctions Determination

The Response Manager will review the final factfinding report. Following the Title IX Coordinator assessment described in Section V.D.10 above, the Response Manager will work with the appropriate St. Thomas administrators, as set forth below, to determine what, if any, sanctions will be imposed or other action will be taken by St. Thomas.

<table>
<thead>
<tr>
<th>If the Responding Party is a(n) . . .</th>
<th>Sanctions will be determined by the . . .</th>
</tr>
</thead>
<tbody>
<tr>
<td>Undergraduate student</td>
<td>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</td>
</tr>
<tr>
<td>Graduate or professional student</td>
<td>Dean of Students and dean of the applicable college or school, in consultation with the Response Manager and, if different, the Title IX Coordinator</td>
</tr>
<tr>
<td>Faculty or staff member</td>
<td>The member of the President's Cabinet with the most direct responsibility for the Responding Party'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</td>
</tr>
<tr>
<td>Both a student and an employee</td>
<td>Dean of Students and Chief Human Resources Officer or designee, in consultation with the Title IX Coordinator</td>
</tr>
<tr>
<td>Not a student or employee</td>
<td>Title IX Coordinator, in consultation with Public Safety and any other appropriate administrators</td>
</tr>
</tbody>
</table>

12. Possible Sanctions

Not all policy violations are deemed equally serious offenses, and St. Thomas may impose different sanctions depending on the particular violation, facts and circumstances, including but not limited to the severity of the offense, any previous conduct violations or disciplinary action, and whether the Responding Party poses a threat to the health or safety of member(s) of the St. Thomas community. The imposition of sanctions is designed to address sexual misconduct, prevent its recurrence and remedy its effects, while supporting and advancing the University's mission and convictions. Examples of sanctions that may be used include but are not limited to any one or any combination of the following:
**Student Responding Party**

- Written warning;
- No contact directive;
- Disciplinary probation;
- Requirement to attend educational sessions or programs;
- Requirement to participate in drug and/or alcohol treatment;
- Requirement to participate in psychological assessment;
- Behavioral contract;
- Removal from University housing;
- Removal from specific course(s) or activities;
- Restriction on campus privileges and access;
- Continuing any interim measures in place;
- Suspension; and/or
- Expulsion.

**Faculty/Staff Responding Party**

- Written warning;
- 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 Responding Parties, 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 Responding Parties, 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.
13. Notice of Outcome to Reporting Party and Responding Party

The Response Manager will provide a written notice of outcome, by letter or email, to the Reporting Party and to the Responding Party. The notice also will include information about the appeal process, when the outcome will be final and in matters involving 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 opportunity to review the final factfinding report. Any such review of the final factfinding report will be conducted a manner consistent with any applicable University practices regarding confidentiality and privacy, including the Family Educational Rights and Privacy Act, if applicable and consistent with practices outlined above regarding review of the preliminary report. The written notifications must be sent within ten (10) working days of the Response Manager’s receipt of the final factfinding report and will be sent to the Reporting Party and the Responding Party at the same time.

St. Thomas may be limited in the information it may share with the Reporting Party as part of or otherwise in connection with this notice of outcome. At a minimum, the outcome letter sent to the Reporting Party will contain the following information: the determination regarding responsibility, information about the rationale, and, if the Responding Party was determined responsible for a policy violation, any sanctions imposed that directly relate to the Reporting Party. In sexual misconduct incidents involving allegations of sexual assault, domestic violence, dating violence or stalking, the notice of outcome also will contain additional information about sanctions against a Responding Party who was determined responsible for a policy violation.

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 Responding Party’s school, college or unit, and in the case of Responding Parties who are employees, the Responding Party’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 Reporting Party and Responding Party will be provided notice of the change at the same time.

E. APPEAL PROCESS

1. Grounds for Appeal

Either the Reporting Party or the Responding Party may appeal the results of the Formal Process on one or more of the following bases:

a. that a procedural error occurred that substantially affected the outcome of the process;
b. that the decision was arbitrary and capricious;
c. that the decision violated academic freedom;
d. that there has been discovery of new evidence by the appealing party, provided that: (i) the evidence was not known or reasonably available to the appealing party prior to the close of the investigation; (ii) the evidence was not previously known to the Factfinder(s); and (iii) the evidence reasonably could have affected the original outcome;
e. that the sanction(s), if any, applied by St. Thomas were excessively severe or grossly inadequate.

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...
present evidence previously known or reasonably available to the appealing party that the appealing party omitted to provide to the Factfinder(s) during the investigation.

2. Submitting an Appeal

A written request for an appeal must be submitted to the Title IX Coordinator within five (5) working days following the date that notification of the outcome of the investigation was sent to the appealing party. The written request for appeal must include a notice of appeal and a signed, written statement, not to exceed 2,000 words, clearly identifying the applicable grounds for appeal, as described in Section V.E.1 above, and the reason(s) for the appeal with respect to each ground identified. The notice of appeal and the written statement may be submitted together or separately.

3. Interim Action

Consistent with the provisions of Section IV.C.1, following the submission of a notice of appeal, the Response Manager, in consultation with appropriate administrators and, will determine appropriate interim action(s) to protect the community and the parties while the appeal is pending. The Response Manager shall notify the Reporting Party and the Responding Party of such interim action(s). Examples of interim action(s) are listed in Section IV.C.1.

4. Opportunity to Review the Request for Appeal

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. 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 in the presence of a University official. The other party may, if they choose, submit written comments, not to exceed 500 words, within three (3) working days following such review.

5. Appointment of Appeal Officer

Promptly following receipt of the request for appeal, the Title IX Coordinator will appoint an Appeal Officer. The Appeal Officer generally is determined based on the identity of the Responding Party, as set forth in the table below. The Appeal Officer has the duties described in the subsequent paragraphs.

<table>
<thead>
<tr>
<th>If the Responding Party is a . . .</th>
<th>The Appeal Officer is . . .</th>
</tr>
</thead>
<tbody>
<tr>
<td>Student (who is not also a regular faculty or staff member)</td>
<td>The Vice President for Student Affairs</td>
</tr>
<tr>
<td>Faculty or staff member (who is not a student worker)</td>
<td>Executive Vice President and Provost</td>
</tr>
</tbody>
</table>

The Title IX Coordinator will consider whether the proposed Appeal Officer has a conflict of interest. In cases involving a potential conflict of interest or other issue preventing an individual from serving as an Appeal Officer, the Title IX Coordinator may appoint an alternate Appeal Officer who has received appropriate training.

6. Appointment of Appeal Board

In cases in which the Responding Party is a staff or faculty member, the Appeal Officer will appoint an appeal board comprising five St. Thomas employees who do not have a conflict of interest. If the Responding Party is a faculty member, the members of the appeal board will be full-time tenured faculty members selected in accordance with the Faculty Handbook process for appointing grievance hearing committees.
In cases in which the Responding Party is a student and in cases in which the Responding Party is another individual who is not a student or employee, the Appeal Officer may consider the appeal directly or the Appeal Officer may, using personal discretion, appoint an appeal board of three to five employees who are faculty or staff members (not student workers).

All appeal board members must receive or have in the past year received training on the policy, procedures and applicable law. The appeal board will appoint a chair from among its members.

7. Consideration of Appeal

The appeal board (or Appeal Officer, if no appeal board has been appointed):

- Will review the appeal, any response submitted by the other party, the notices of outcome, and the final factfinding report, and consider any previously undiscovered evidence (if discovery of new evidence is a ground for appeal).
- May choose to meet with the parties, the Factfinder(s) or others and consider other additional information, in its (or the Appeal Officer's) sole discretion.
- Will consider whether it is more likely than not that the designated grounds for appeal have been satisfied.

If an appeal board is used, deliberations of the appeal board will be confidential. The appeal board will attempt to reach consensus. If consensus is not possible, the appeal board will vote, with each member having one vote. Determinations will be made based on a majority of the total number of votes eligible to be cast.

If an appeal board is used, the appeal board will provide the Appeal Officer with a written report of its findings of whether the designated grounds for appeal have been satisfied and, if so, a recommendation as to whether St. Thomas should remand the matter or take any different or additional action than was originally determined. Such report will be provided to the Appeal Officer no later than twenty (20) working days following the submission deadline for a written request for appeal, unless the Title IX Coordinator extends such timing based on specific facts and circumstances.

The Appeal Officer will give careful consideration to the recommendation of the appeal board, but will not be bound by it. As soon as possible, but no later than five (5) working days following receipt of the appeal board's findings and recommendations, the designated Appeal Officer will notify the Reporting Party and Responding Party in writing of the appeal board's findings and recommendation and the final disposition of the appeal. In cases involving sexual assault, dating violence, domestic violence or stalking, the notice will include a description of any change(s) to the outcome, a rationale for the determination, whether the result is final and, if applicable, when the determination will become final.

If no appeal board is used, the Appeal Officer will issue a written decision stating the Appeal Officer's findings and the final disposition of the appeal within fifteen (15) working days following the submission deadline for a written request for appeal.

The Appeal Officer will notify appropriate St. Thomas administrators, faculty and staff members of the outcome on a need-to-know basis.

The Appeal Officer, in consultation with the Title IX Coordinator, may shorten or extend the timeframes above depending on the overall timing of the response and resolution process and other factors, including, without limitation, University holidays and breaks, availability of appeal board members, and specific circumstances related to the appeal. If an extension is necessary, the
consideration and determination of the appeal must be conducted as promptly as possible. The parties will be notified in writing if the notice of outcome of appeal will be materially delayed due to any changes to the timeframes noted above.

8. No Further Appeal

Appeals arising out of alleged violations of the policy must be made under this appeal process and are not eligible for consideration under faculty, staff or student grievance policies or processes. The President has discretion to modify a decision in exceptional circumstances.

SECTION VI. ALTERNATIVE RESOLUTION PROCESS

The Alternative Resolution Process is a voluntary, structured process designed to be used when a Reporting Party does not wish to follow the Formal Process, when a Responding Party does not want to follow the Formal Process and accepts responsibility and sanctions, when St. Thomas determines that the nature of the Report does not necessitate the initiation of the Formal Process, and/or in other unique circumstances. The Alternative Resolution Process may be used to provide remedies for the Reporting Party and in some cases, to provide an opportunity for the Responding Party to accept responsibility for harm to the Reporting Party and/or to the University community, without going through the Formal Process. Resolution options are designed to eliminate the conduct at issue, prevent it from recurring, and address its effects.

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 to review and consider available options to address the alleged misconduct using alternatives to the Formal Process. The alternatives available will fall into two groups: (1) resolution options that include involvement by the Responding Party and the possibility of disciplinary sanctions, and (2) resolution options that focus on providing remedies to the Reporting Party and community without involvement by the Responding Party and without the possibility of disciplinary sanctions. The Alternative Resolution Process may include one or more of the following: acceptance of responsibility by and disciplinary sanctions against the Responding Party; mediation (will not be used in sexual assault cases); facilitated communication between the Reporting Party and Responding Party with appropriate involvement by St. Thomas; and a change in the Reporting Party's work, academic, living or other situation within the control of St. Thomas.

At any time before a final resolution is reached, the Reporting Party, the Responding Party, and/or the Title IX Coordinator have the right to end the Alternative Resolution Process and initiate the Formal Process. Parties may use a support person in the Alternative Resolution Process to the same extent they could use a support person in the Formal Process. (See Section V.C above.)

St. Thomas will strive to conclude the Alternative Resolution Process promptly and within sixty (60) calendar days of receiving a Report. The timeframe for particular matters may vary depending on the circumstances, and additional time may be necessary in some situations. All extensions and postponements of the time limits must be authorized by the Title IX Coordinator or designee and will be no longer than reasonably necessary.

The Alternative Resolution Process will not result in a disciplinary sanction against the Responding Party unless the Responding Party participates in the process, is given an opportunity to review and respond to the Report and accepts responsibility. The disciplinary sanctions under the Alternative Resolution Process may not include expulsion or termination of employment. For students, the maximum disciplinary sanction available through the Alternative Resolution Process is suspension. For employees, the maximum disciplinary sanction available through the Alternative Resolution Process is a termination warning for staff or a disciplinary letter for faculty. Remedies available
under the Alternative Resolution Process may include, but are not limited to, any one or any combination of the following:

**Possible remedies available in all matters:**

- An agreement by the University to provide additional training to the St. Thomas community or to a particular audience within the university community;
- An agreement by the University to provide agreed support measures to the Reporting Party;
- An agreement by the University to send a message to the Responding Party;
- A mutual no-contact directive.

**Possible remedies that include disciplinary sanctions - available if Responding Party participates in the Alternative Resolution Process and accepts responsibility:**

- Behavioral contract;
- Requirement that Responding Party attend educational sessions or programs;
- Requirement that Responding Party participate in drug and/or alcohol treatment;
- Requirement that Responding Party participate in psychological assessment;
- Parental notification;
- Requirement that Responding Party serve disciplinary probation (for students);
- Requirement that Responding Party move out of University housing;
- Restrictions on campus privileges and access;
- Continuing any interim measures in place;
- Suspension or voluntary withdrawal for one or more semesters (for students); and/or
- Termination warning or other disciplinary warning (for staff) or disciplinary letter (for faculty).

At the conclusion of the Alternative Resolution Process, the University will provide the Reporting Party with a letter that includes a written description of the remedies. If the Responding Party has participated in the process, the Responding Party will be provided a similar letter listing any sanctions against the Responding Party. The letter to the Responding Party will not include information on any support services, accommodations or protective measures offered to the Reporting Party unless a protective measure, like a no-contact directive, impacts the Responding Party. The Reporting Party and Responding Party (if sanctions and acceptance of responsibility are required) will have five (5) working days to agree to the remedies (including any sanctions and acceptance of responsibility) or to request that the Formal Process be instituted. If neither party objects to the remedies by requesting the Formal Process, the remedies will be entered and considered final.

In cases in which the Responding Party did not participate in the Alternative Resolution Process and the remedies, therefore, did not include any sanctions, the Reporting Party may request that the University institute the Formal Process even after conclusion of the Alternative Resolution Process. In cases in which the remedies imposed included disciplinary sanctions against the Responding Party, the results of the Alternative Resolution Process are final and will not be changed, except in extenuating circumstances and at the sole discretion of the Title IX Coordinator.
Any resolutions reached in the Alternative Resolution Process must be documented and approved by the Title IX Coordinator (in cases in which the Response Manager is not the Title IX Coordinator) to ensure consistency with the University’s Title IX obligations.

SECTION VII. RECORDKEEPING

The Title IX Coordinator is responsible for maintaining the official St. Thomas records of sexual misconduct Reports and Complaints. When a Report or Complaint is pending, each official having a role in the response and resolution process is responsible for handling records appropriate to the official’s role. When the process is complete, the official records relating to the 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. The official records include:

1. A copy of any Public Safety Report submitted related to the case (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 interim action taken and copies of correspondence from St. Thomas to the Reporting Party and Responding Party relating to the interim action;
5. Copies of any notices or summaries given to the Reporting Party and/or Responding Party;
6. In cases where the Alternative Resolution Process is used:
   a. a summary of the Report of sexual misconduct and request for resolution via the Alternative Resolution Process; and
   b. a summary of the process used and responsive action taken by St. Thomas; and
   c. copies of the notices of outcome provided to the parties related to the factfinding;
7. In cases where the Formal Process is used:
   a. a copy of the Complaint;
   b. the preliminary factfinding report (if applicable) and the final factfinding report;
   c. copies of any statements provided by the parties or witnesses, including responses to the preliminary factfinding report (if applicable);
   d. evidence submitted by the parties;
   e. appeal request, if any;
   f. documentation demonstrating appointment of appeal board, if applicable;
   g. report of appeal board, if applicable;
   h. decision of Appeal Officer; and
   i. copies of the notices of outcome provided to the parties related to the factfinding and, if any, the appeal; and
8. A timeline of communication with the parties.

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

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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.

Records related to Reports and Complaints will be treated as confidential and shared only on a need-to-know basis or as required by law.