

Sexual Misconduct Policy

Prelude

Concordia College is committed to diverse community in an atmosphere of mutual respect and appreciation of differences. In accordance with Title IX, this policy addresses the college's prohibition of sex discrimination. Sexual harassment, sexual assault, and other forms of sexual misconduct are forms of sex discrimination. Not only are they prohibited by this policy, but they are also prohibited by various federal and state laws, including Title IX of the Educational Amendments of 1972 and the Minnesota Human Rights Act.

Non-Discrimination Statement

Concordia College does not discriminate on the basis of race, color, creed, sex, religion, national origin, age, disability, genetic information, status with respect to public assistance, or sexual orientation in administration of its educational policies, financial aid program, athletics and all other programs. Harassment based upon an individual's legally protected status is a form of prohibited discrimination.

Sexual Harassment includes a variety of unwelcome behaviors of a sexual nature, and in its most severe form includes sexual misconduct. Examples of sexual misconduct include, but are not limited to: sexual assault, domestic violence, dating violence, and stalking.

Inquiries regarding compliance may be directed to the Human Resources Director/Title IX Coordinator, Peggy Torrance, titleix@cord.edu, Concordia College, Office 150, Lorentzen Hall, Moorhead, MN 56562, (Phone) 218-299-3339.

Questions or concerns may also be directed to the Office of Civil Rights of the United States Department of Education at:

U.S. Department of Education

Office for Civil Rights

Citigroup Center

500 W. Madison Street, Suite 1475

Chicago, IL 60661-4544

Tel: 312.730.1560

TDD: 877.521.2172

Email: OCR.Chicago@ed.gov

Policy Prohibiting Sexual Misconduct

Concordia College is committed to a safe and healthy environment and as such will not tolerate sexual misconduct in any form. Any form of sexual misconduct is a violation of federal and state laws and a violation of individual rights and dignity. Members of the Concordia community, guests, and visitors have the right to be free from sexual misconduct. The college will promptly respond to complaints of sexual misconduct to stop the conduct, ensure that such actions are not repeated and address the effects the misconduct on any individual or the college community. All members of the community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The Concordia Sexual Misconduct Policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated.

Scope of Policy

The sexual misconduct policy applies to all students, employees, volunteers, contractors and guests of Concordia College - regardless of the sexual orientation or gender identity of any of the parties – and covers incidents that may adversely impact an employee’s work, a student’s educational environment, and/or other’s participation in the institution’s programs or activities. This policy also applies to off campus conduct that the college has determined may cause or threaten to cause an unacceptable disruption to the college or which may infringe on an individual’s right to a non-discriminatory educational and work environment.

Concordia College is committed to addressing sexual misconduct and encourages individuals to report incidents to designated College authorities. Individuals found responsible for sexual misconduct are subject to disciplinary action deemed appropriate by the college; up to an including termination for employees, contractors, and volunteers; and including no trespass orders, and prohibition from employment or volunteering for guests.

Students are subject to sanctions including expulsion, suspension, probation, monetary fines/restitution, removal from housing, warnings/reprimands, educational sanctions, counseling, ban from campus, removal from housing or change in location of housing, dismissal/termination/restrictions regarding college employment, restitution, issuance of no contact orders, and restrictions in access to college facilities and activities.

Sanctions for staff or faculty members deemed to have violated this policy include a disciplinary warning, unpaid suspensions, suspension of promotion and salary increments, loss of prospective benefits, major fines, reduction in salary, suspension from service, suspension or withdrawal of privileges, demotion and/or termination of employment, and any other sanction appropriate to the incident.

Responsibilities of the Title IX Coordinator

Pursuant to Title IX of the Educational Amendments of 1972 and 34 C.F.R. Part 106, the Concordia College Title IX Coordinator is the designated representative of the college with primary responsibility for coordinating college Title IX compliance efforts, including the college’s efforts to end sexual misconduct, prevent its recurrence, and address its effects. The responsibilities of this position are critical to the advancement, implementation, and monitoring of college-wide efforts to comply with Title IX legislation, regulation, and case law. The Title IX Coordinator is the college agent who is charged with the responsibility to oversee and monitor Title IX related policies and developments; the implementation and oversight of grievance processes and procedures, including notification, investigation and adjudication of complaints; oversight of provision of educational materials and training for the campus community; conducting and/or overseeing investigations of complaints received pursuant to Title IX; ensuring a fair and neutral process for all parties; and monitoring all other aspects of the college’s Title IX compliance.

Definitions

Complainant: The individual who has experienced an alleged instance of sexual misconduct.

Respondent: The individual(s) who has/have been accused of sexual misconduct.

Force: The use of physical violence, threats, or intimidation to gain sexual access.

Sex Discrimination: Sex discrimination is conduct based upon an individual’s sex that excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of, an individual’s employment, education, living environment or participation in a program or activity. Sex discrimination encompasses all forms of sexual harassment, sexual misconduct, differential treatment, and gender-based harassment.

Sexual Harassment: Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement, or
2. Submission to such conduct is used as a basis for employment or academic decisions, or
3. The behavior has the purpose or effect of unreasonably interfering with work or creating an intimidating, hostile or offensive working environment, or
4. The conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program, interferes with academic performance, or creates an intimidating, hostile or offensive college environment.

Sexual harassment is distinguished from a voluntary sexual relationship by the introduction of the element of coercion, threat, hostility, or unwanted attention of a sexual nature. Actions that can constitute sexual harassment include:

1. Unwelcome sexual flirtations, advances, or propositions;
2. Requests for sexual favors;
3. Verbal abuse of a sexual nature, obscene language, off-color jokes, verbal commentary about an individual's body, sexual innuendo, and gossip about sexual relations;
4. The display of derogatory or sexually suggestive posters, cartoons, drawings, objects, notes, letters, emails, or text messages;
5. Unwelcome visual conduct such as leering or making gestures;
6. Videotaping or taking photographs of a sexual nature without consent;
7. Cyber harassment, including but not limited to disseminating information, photos, or video of a sexual nature without consent;
8. Engaging in conduct of a sexual nature which creates an intimidating, hostile, or offensive academic or work environment (e.g., sexually-oriented jokes, offensive physical contact, obscene messages and gestures); and
9. Punishing or threatening to take adverse action against a subordinate or student for refusing to comply with sexual demands.

Although certain forms of sexual harassment may seem self-evident, recognizing such behavior when it is happening can be difficult. In making such an assessment, one should consider whether the behavior:

1. Is offensive, unwanted or both;
2. Interferes with one's ability to enjoy his or her employment or academic environment;
3. Interferes with job or academic performance; or
4. Causes unnecessary discomfort, humiliation or harm to oneself or others around one.

Sexual harassment can occur anywhere, anytime between and among students, faculty, staff and coworkers, in consensual and nonconsensual relationships; it occurs in situations where one person abuses the power he or she has over another person, violating the boundaries and trust implicit in that relationship. It can occur between peers where no power differential exists. It can occur between members of the opposite or same sex.

Sexual Misconduct: A form of sexual harassment that includes sexual assault and other sexual violence, dating violence, domestic violence, stalking, peeping, voyeurism and actions beyond the boundaries of consent. Sexual misconduct may also include nonconsensual sexual contact. (Speech which is threatening or intimidating, and which meets the definition of sexual harassment, constitutes sexual misconduct). Photographs, video and other visual and auditory records of sexual activity made or shared without explicit consent constitute sexual misconduct even if the activity documented was consensual.

Sexual Assault: Sexual assault is any sexual contact, including but not limited to sexual penetration, with another person who does not or cannot give consent. This may or may not include force. For purposes of this policy, "sexual contact" shall have the same meaning as it has under Minnesota law, and includes, but

is not limited to, the intentional touching by the respondent of the complainant's breasts, inner thighs, buttocks, genitals and/or groin area, whether clothed or unclothed; or the coerced touching by the complainant of another's intimate parts. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts. Sexual assault includes, but is not limited to:

1. Rape (the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of any person, without the consent of the victim);
2. Fondling (the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim);
3. Incest (sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law);

Statutory rape is sexual intercourse with a person who is under the statutory age of consent.

Consent: In order for individuals to engage in sexual activity of any type with each other, there must be clear consent. Consent is conduct or words that indicate a person agrees to engage in a particular sexual act at the time of the act.

1. Consent is informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.
2. Consent to some form of sexual activity cannot be automatically taken as consent to any other sexual activity.
3. Silence -without actions demonstrating permission- cannot be assumed to show consent.
4. Consent cannot be inferred from a prior or existing sexual, romantic or marital relationship. Past consent does not imply future consent.
5. Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercing someone into sexual activity violates this policy just as much as physically forcing someone into sex. Coercion, force, or threat invalidates consent.
6. Sexual activity with someone one knows to be, or should know to be, mentally or physically incapacitated (by alcohol or other drug use, unconsciousness, sleep, blackout, or any other means) or because of an intellectual or other disability that prevents another person from having the capacity to give consent, violates this policy.
7. Consent can be withdrawn at any time.
8. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
9. A person who is not of legal age (16 years old in Minnesota) cannot consent to sexual activity.

Alcohol or Drug Use: Use of alcohol or other drugs will never function to excuse behavior that violates this policy. If you were assaulted while under the influence of alcohol or other drugs, your intoxicated state does not excuse the behavior of your attacker.

Sexual Exploitation: Occurs when an individual takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses.

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

1. prostituting another individual;
2. non-consensual video or audio-taping of sexual activity;
3. non-consensual sharing of sexually explicit messages, photos, or video electronically or otherwise;
4. going beyond the boundaries of consent (such as allowing others to view consensual sex);
5. engaging in peeping tommyery;

6. knowingly transmitting a sexually transmitted disease or sexually transmitted infection to another individual

Incapacitation: Sexual activity with someone one knows to be, or should know to be, mentally or physically incapacitated (by alcohol or other drug use, unconsciousness, sleep, blackout, or any other means). Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the; who, what, when, where, why or how of their sexual interaction.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship will be determined based on consideration, as reported by the complainant, 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.*

Domestic Violence: A felony or misdemeanor crime of violence committed by the complainant's: 1.) parent, 2.) child, 3.) other blood relative, 4.) persons who have a child in common, regardless of whether they have been married or lived together in the past, 5.) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or lived together in the past, and 6.) persons involved in a significant romantic or sexual relationship. *See Minnesota Statutes Section 518B.01 et seq.*

Stalking: (1) a course or pattern of unwelcome and unwanted conduct (2) that a person knows or has reason to know (3) would cause the victim 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 includes, but is not limited to:

1. repeated, unwanted and intrusive communications by phone, mail, text message, email and/or other electronic communications, including social media;
2. repeatedly leaving or sending the victim unwanted items, presents or flowers;
3. following or lying in wait for the victim at places such as home, school, work or recreational facilities;
4. making direct or indirect threats to harm the victim or the victim's children, relatives, friends or pets;
5. damaging or threatening to damage the victim's property;
6. posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth; and/or
7. 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, etc.

As defined by Minnesota law, stalking means "to engage in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim."

Retaliation: Adverse action, treatment or conditions taken against an individual for making a good faith report of a violation of this policy, for supporting another person's report, or participating in an investigation or other proceedings based on the report.

Consensual Relations: Relationships between a faculty or staff member and a student should be considered that of the professional and client in which sexual relationships are inappropriate. The power differential in such relationships, as well as those between a supervisor and an employee, compromises the ability of the person in the position of less authority to freely decide or act. Such behavior is also unacceptable in terms of the values, standards and expectations of the college. The existence of a consensual relationship or prior consensual relationship between individuals of unequal status will not preclude a party from bringing a complaint of sexual harassment and/or the college from investigating such a matter.

Hostile Environment Caused by Sexual Harassment: Hostile environment sexual harassment occurs when verbal, non-verbal and/or physical conduct is:

1. sexual and/or based on sex, gender, gender identity or sexual orientation (actual or perceived).
2. unwelcome, and
3. sufficiently severe and pervasive to interfere with a person's work/learning/program performance or to create a hostile, intimidating or offensive environment.

Resources & Contact Information

National Sexual Assault Hotline: 800-656-4673

Moorhead

Emergency Contact on Campus

24-Hour Emergency On Campus
Public Safety - 218-299-3123
Knutson Campus Center Information
Desk,

macdonal@cord.edu

Emergency Contact Off Campus

Moorhead Police Department
218-299-5111 or 911

Bemidji

Emergency Contact on Site

24-Hour Emergency on Site
Warren Schulze - 218-586-8999
The Ginungagap Building
8659 Thorsonveien Rd. NE
Bemidji, MN 56601

wschulze@cord.edu

Emergency Contact Off Site

Beltrami County Sheriff
218-333-9111 or 911

Bemidji Police Department
218-333-9111 or 911

On Campus/On Site Places to Report Sexual Misconduct

Moorhead

Title IX Coordinator:
Peggy Torrance – 218-299-3339
150 Lorentzsen Hall
titleix@cord.edu

Office of Student Development and Campus Life:
Laura Zeiher – 218-299-3455
101 Academy Hall

Bemidji

Director of Operations
Warren Schulze - 218-586-8502
The Ginungagap Building
8659 Thorsonveien Rd. NE
Bemidji, MN 56601
wschulze@cord.edu

lzeiher@cord.edu

Department of Public Safety:
 Bill MacDonald or any Public
 Safety officer – 218-299-3123
 Knutson Campus Center
 Information Desk
macdonal@cord.edu

Title IX Committee:

Roger Olson - 218-299-3682
 236 Lorentzsen Hall
rolson@cord.edu

Joanne Barfknecht - 218-586-8771
 The Centrum Building
 8659 Thorsonveien Rd. NE
 Bemidji, MN 56601
jbarfkne@cord.edu

Stephanie Ahlfeldt - 218-299-3107
 211 Lorentzsen Hall
ahlfeldt@cord.edu

Rachel Bergeson - 218-299-4728
 104A Memorial Auditorium
bergeson@cord.edu

Mikal Kenfield – 218-299-3899
 110 Academy Hall
kenfield@cord.edu

William MacDonald – 218-299-3123
 Knutson Campus Center
 Information Desk
macdonal@cord.edu

On Campus Confidential Resources

Moorhead

Katie Nystuen
 Coordinator for Health Services
 401 Old Main
 218-299-3662
knystuen@cord.edu

Counselors
 Counseling Center 218-299-3514
 106 Academy Hall

Matthew Rutten
mrutten@cord.edu

Bemidji

Kira Frisby
 Health Services Manager
 8630 Thorsonveien Rd NE
 218-856-8777
 Bemidji, MN 56601
kfrisby@cord.edu

Denage Sauve
dsauve@cord.edu

Megan Degenstein
mdegenst@cord.edu

Pastor
 Rev. Elizabeth McHan
 Office of Ministry and Spiritual Life
 218-299-4161
 202 Knutson Campus Center
emchan@cord.edu

Minister
 Jon Leiseth
 Minister for Faith and Spirituality in Action
 Office of Ministry and Spiritual Life
 218-299-3448
 202 Knutson Campus Center
leiseth@cord.edu

Off Campus/Off Site Places to Report Sexual Misconduct

Moorhead

Moorhead Police 218-299-5111 or 911

Sanford Medical Center 701-234-1777

Essentia Health 701-364-8401

Bemidji

Beltrami County Sheriff
 218-333-9111 or 911

Bemidji Police Department
 218-333-9111 or 911

Sanford Medical Center
 218-751-5430

Off Campus/Off Site Confidential Resources

Moorhead

Rape & Abuse Crisis Center 701-293-7273

Bemidji

Sexual Assault Program, Beltrami, Cass,
 & Hubbard Counties 800-708-2727

Battered Women's Shelter and Assistance
 800-444-6229 or 218-444-1395

Victim Services & Legal Information

Moorhead

Rape & Abuse Crisis Center 701-293-7273

Crime Victim Advocacy Program, Clay
County Attorney's Office 218-299-5035

Minnesota Crime Victims Reparations Board

651-201-7300 or 1-888-622-8799

Bemidji

Sexual Assault Program, Beltrami,
Cass & Hubbard Counties 800-
708-2727

Minnesota Crime Victim
Reparations Board

651-201-7300 or 1-888-622-8799

General Information Resources on Campus/On Site

Moorhead

Human Resources 218-299-3339

Student Development and Campus Life 218-299-3455

Global Learning 218-299-3927

Student Support Services 218-299-3455

Office of Financial Aid 218-299-3010

Bemidji

Human Resources 218-299-3339

Confidentiality

Confidential vs. Non-Confidential Communications

In times of distress, it may be confusing to determine how to obtain personal support and clear information about options and resources. In making a decision about whom to contact for support and information, it is important to understand that **most Concordia employees are not confidential resources, and are therefore obligated to report to the college any information they receive about sex discrimination, sexual harassment, or sexual misconduct.** Student workers who become aware of sex discrimination, sexual harassment, or sexual misconduct as a result of their college employment are also not confidential resources, and in that capacity are also obligated to report to the college. Only a few employees are *confidential* resources who, in most circumstances, are not obligated to disclose such information. Below is additional information about confidential and non-confidential communications. Persons who have experienced sex discrimination, sexual harassment, or sexual misconduct are encouraged to consider this information in choosing whom to contact for information and support.

Confidential Communications

The college has designated specific persons as confidential resources for individuals who prefer to talk with someone confidentially about their concerns. These confidential resources include the following:

Moorhead

Katie Nystuen
Coordinator for Health Services
401 Old Main

Bemidji

Kira Frisby
Manager Health Services, CLV
Bemidji, MN 56601

218-299-3662
knystuen@cord.edu

218-856-8777
kbfrisby@cord.edu

Counselors
 Counseling Center and Disability Services
 106 Academy Hall
 218-299-3514

Matthew Rutten
mrutten@cord.edu

Juihsien Kao
jkao@cord.edu

Megan Degenstein
mdegensteintern@cord.edu

Pastor
 Rev. Elizabeth McHan
emchan@cord.edu
 Office of Ministry and Spiritual Life
 202 Knutson Campus Center
 218-299-4161

Minister
 Jon Leiseth
 Minister for Faith and Spirituality in Action
 Office of Ministry
 218-299-3448
 202 Knutson Campus Center
leiseth@cord.edu

Individuals may discuss concerns in complete confidence with a confidential resource, so long as the allegations do not involve the physical or sexual abuse of a child or vulnerable adult or the threat of imminent harm to self or others. In addition, the college's Counseling Center staff can assist individuals with obtaining medical, emotional, and other support resources whether or not they decide to report their concerns to the college. Confidential resources must submit non-identifying information about incidents which may be violations of this policy to Concordia Public Safety for purposes of anonymous statistical reporting under the Clery Act.

Non-Confidential Communications with Faculty, Staff, and Student Employees of the College

Non-confidential communications are those communications with any college employee who is not a confidential resource as identified above. Only confidential resources can promise confidentiality. All other college employees who become aware of incidents or allegations of sex discrimination, sexual harassment, and sexual misconduct, including sexual assault, dating violence, domestic violence, or stalking, must report the matter to the college, even if the complainant requests confidentiality. Examples of non-confidential communications include those with:

1. Title IX Coordinator
2. Office of Student Development and Campus Life Staff
3. Residence Life Staff
4. Resident Assistants
5. Public Safety Staff
6. Human Resources Office Staff

7. All faculty members
8. Concordia Language Villages Deans
9. Coaches

Communications with Students

Students who receive information about sex discrimination, sexual harassment, or sexual misconduct in their capacity as college employees are not confidential resources, and are therefore obligated to report this information to the college. The college strongly encourages all other students to report to the college all incidents of sex discrimination, sexual harassment and sexual misconduct, including sexual assault, dating violence, domestic violence, and stalking, so that the college can investigate and respond to such reports.

Reporting Options and Considerations

Reports to the College

As indicated above, with the exception of confidential resources, all faculty, administrators and staff, and all students in their role as college employees, are obligated to report to the college any information they may receive concerning sex discrimination, sexual harassment, or sexual misconduct. All other individuals are strongly encouraged to report to the college as well. An individual may choose not to make a complaint or report in his or her own case, even if he or she otherwise has reporting obligations (as a college employee or student worker) with regard to incidents involving others.

Any individual may provide a report to the college by contacting any of the following designated college authorities:

Title IX Coordinator: Peggy Torrance, 218-299-3339, titleix@cord.edu

Student Development and Campus Life/Director of Student Conduct: Laura Zeiher, 218-299-3455, lzeiher@cord.edu

Director of Residence Life: Mikal Kenfield, 218-299-3889, kenfield@cord.edu

Director of Public Safety: William MacDonald, 218-299-4358, macdonal@cord.edu

Human Resources Representative, CLV: Joanne Barfknecht, 218-586-8771, jbarfkne@cord.edu

Athletic Director: Rachel Bergeson, 218-299-4728, bergeson@cord.edu

Associate Dean of the College: Stephanie Ahlfeldt, 218-299-3107, ahlfeldt@cord.edu

CLV Director of Operations: Warren Schulze, 218-586-8502, wschulze@cord.edu

Reports to the college should include as much information as possible, including the names of the complainant and the respondent, and the date, time, place, and circumstances of the incident(s), to enable the college to respond appropriately. Reports can be made by telephone, in person, or online, and can be made anonymously as set forth in the “Anonymous Reports” section of this policy (below). College authorities including, but not limited to, those listed above, will assist individuals with reporting incidents of sex discrimination, sexual harassment, and sexual misconduct, including sexual assault, dating violence, domestic violence, and stalking, to the college. Upon receipt of a report, the college will initiate its response and resolution process as set forth herein.

Reports to Law Enforcement

Individuals who believe they may have been subject to criminal sexual misconduct are strongly encouraged to notify the Public Safety Office and/or local law enforcement authorities. Individuals will be assisted by campus authorities in notifying law enforcement authorities, if the individual so chooses. All complainants are encouraged to report the incident to the Moorhead Police Department or the Bemidji Police Department and file criminal charges. The filing of charges is optional and individuals may decline to notify such authorities. Individuals can still pursue the college process even if they choose not to make a report to law enforcement.

If filing charges is a consideration, sexual assault complainants should go to the Sanford (in both Fargo and Bemidji) or Essentia Hospital (in Fargo) as soon as possible to obtain a medical exam and preserve evidence that may be necessary for criminal prosecution. Sexual misconduct may be reported to law enforcement by contacting the Moorhead Police Department at 911.

Regardless of whether an incident of sexual misconduct is reported to the police or the college, Concordia strongly encourages individuals who have experienced sexual misconduct to preserve evidence to the greatest extent possible, as this will best maintain all options for them in the future. An individual should not bathe, shower, brush teeth, dispose of clothing or other physical evidence. If there is suspicion that a drink may have been drugged, inform a medical assistance provider and/or law enforcement as soon as possible so they can attempt to collect possible evidence (e.g., from the drink, through urine or blood sample).

Petition forms to apply for Harassment Restraining Orders and for Orders for Protection are available in the Public Safety Office and the Moorhead Police Department. These forms must be submitted to the Court Administrator in the Clay County Courthouse, 807 11th St. N., 1st Floor, Moorhead, MN 56560 during business hours. In Bemidji, the Court Administrator is located at the Beltrami County Judicial Center, 600 Minnesota Avenue, Suite 108, Bemidji, MN, 56601. Contact either the Title IX Coordinator Peggy Torrance (218-299-3339 or titleix@cord.edu) or Deputy Title IX Coordinator Laura Zeiher (218-299-3455 or lzeiher@cord.edu) for assistance with obtaining a no contact order.

The Director of Public Safety at the Moorhead campus and the Director of Operations at the Concordia Language Villages are available to assist victims of a crime with contacting the authorities, reporting claims, and pursuing restraining orders. The college will provide complete and prompt assistance to law enforcement authorities, at the direction of law enforcement, in obtaining, securing and maintaining evidence in connection with an incident of sexual assault.

Minnesota Crime Victims Bill of Rights

Under the Minnesota Crime Victims Bill of Rights, when a crime is reported to law enforcement, alleged victims have the right to: request that their identity be kept private in reports available to the public; be notified of crime victim rights and information on the nearest crime victim assistance program or resource; apply for financial assistance for non-property losses related to a crime; be informed of a prosecutor's decision to decline prosecution or dismiss their case (along with information about seeking a protective or harassment order at no cost to the alleged victim); and protection against employer retaliation for taking time off to attend protection or harassment restraining order proceedings. Alleged victims of domestic abuse have the right to terminate a lease without penalty; alleged victims of sexual assault can undergo a confidential sexual assault examination at no cost, make a confidential request for HIV testing of a convicted felon, and are not required to undergo a polygraph examination in order for an investigation or prosecution to proceed. In cases of domestic abuse and violent crime where an arrest has been made, alleged victims also have the right to be provided notice of the release of the offender, including information on the release conditions and supervising agency. Additional rights include the right to protection from harm, the right to participate in prosecution, and the right to assistance from the Crime Victims Reparations Board and the Commissioner of Public Safety. Complete information about crime victims' rights can be found at: <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-rights.aspx>

Complainant Requests for Confidentiality or Non-action

The college is required by law to protect the safety of its campus and its campus community. When the college receives such a report of sex discrimination, sexual harassment, and/or sexual misconduct including assault, it has a legal obligation to respond in a timely and appropriate manner. Making a report to the college does not require a complainant to initiate or participate in the college's complaint procedure, or to report to local law enforcement. The college will assist complainant to understand these options. However, based on information gathered, the college may determine that it has a responsibility to initiate a complaint procedure (even without the complainant's participation). If a complainant asks the college that his or her name or other identifiable information not be revealed during the investigation or that no investigation be conducted, the college will evaluate the request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students, faculty and staff. In some cases, a confidentiality request and/or the refusal to identify a respondent may hinder the ability of the college to undertake an investigation. Thus, the college will weigh the request for confidentiality or no investigation against the following factors: the ability to conduct an investigation without revealing identifiable information, the seriousness of the alleged conduct, whether there have been other discrimination, harassment, sexual misconduct, or retaliation complaints about the same individual, and the extent of any threat to the college community.

Although the college cannot guarantee confidentiality, it will strive to accommodate a complainant's requests to the extent possible consistent with the legal obligations of the college to investigate and respond effectively to reports and complaints, and to report campus crimes in accordance with applicable law. In addition, when the college is obligated to provide the college community with timely warnings, names of the persons involved are not used, and every effort will be made to avoid personally identifying information.

Interim Measures

At any time after a report of a potential violation of this policy has been received by the college, the college may take immediate steps as it finds appropriate to protect a complainant or to meet its obligations to maintain a safe, nondiscriminatory learning environment for students. The college may take such steps even when a complainant asks that the college keep a reported violation of this policy confidential and/or that it not investigate the matter. Such measures will vary based on the particular facts and circumstances and based on a complainant's confidentiality preferences, but may include:

1. Establishing a "no contact" order to prohibit any form of contact either between two individuals or to prohibit one individual from contacting another.
2. Prohibiting an individual from being on campus or at college events.
3. Changing a student's or employee's status.
4. Changing work, class, or other schedules.
5. Providing assistance with academic issues.
6. Issuing a timely warning of any substantial threat or danger to the community.
7. Making information about and providing assistance with respect to orders for protection and harassment restraining orders, including enforcement of such orders.

To request an accommodation or protective measure, complainants should contact the Title IX Coordinator or the Office of Student Development and Campus Life. The college will maintain as confidential any accommodations or protective measures provided to the complainant, to the extent that maintaining such confidentiality will not impair the ability of the college to provide the accommodations or protective measures. The college will also solicit feedback from the complainant as to the effectiveness of the accommodations or protective measures, and adjust the arrangements if necessary to ensure effectiveness.

Anonymous Reports

The college will accept anonymous reports of conduct alleged to violate this policy. Anonymous reports may be made on-line at: <https://www.concordiacollege.edu/directories/offices-services/human-resources/title-ix/title-ix-anonymous-reporting-form/> or at: Campus Conduct Hotline, 866-943-5787.

The individual making the report is encouraged to provide as much detailed information as possible to enable the college to investigate and respond. Insufficient information may limit the college's ability to conduct a meaningful investigation.

Amnesty

No student who reports, in good faith, an act of sexual harassment or sexual violence, or who otherwise participates in the investigation of or disciplinary proceedings regarding such a report, shall be sanctioned by the institution for admitting to a violation of the college's code of student conduct policy on the personal use of alcohol or drugs as a part of their report.

Prohibition of Retaliation

The college prohibits retaliation against any individual who makes a good faith report of a potential violation of this policy, who supports another person's report, or who acts as a witness in any investigation into a complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. If either the complainant or respondent believes that she or he has been the subject of retaliation, she or he should contact the Title IX Coordinator or Student Development and Campus Life Director of Student Conduct/Deputy Title IX Coordinator. Any such request should include a description of the alleged retaliation. If the Title IX Coordinator or the Student Development and Campus Life Director of Student Conduct/Deputy Title IX Coordinator determines that there has been retaliation, the college will take appropriate action, up to and including termination for employees or volunteers, or dismissal for students, against any individual who retaliates against another person in violation of this policy.

Community Reporting and Warning Notifications

Community Reporting & Institutional Response

All members of the Concordia College community are encouraged to report incidents of suspicious or criminal activity to Public Safety (218-299-3123), the Moorhead Police Department (911), the Bemidji Police Department (218-333-9111 or 911) or the Beltrami County Sheriff (218-333-9111 or 911).

Those members of the Concordia College community identified as Mandatory Reporters, and also those who are Campus Security Authorities as defined by the Crime Awareness and Campus Security Act (Clery Act), including advisors to student organizations, athletic team coaches, members of the Public Safety Department, members of the Office of Student Development and Campus Life, members of the Residence Life Office, and other members of the college community who have significant responsibility for student and campus activities, are required to report crimes to Public Safety for inclusion in the Annual Security Report. It is critical that all reported crimes are included in the college's Annual Security Report (ASR). Compliance does not violate the Family Educational Rights and Privacy Act (FERPA).

Timely Warnings and Daily Crime Log

Under the Clery Act, the college must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The college will make every effort to avoid disclosure of personally identifiable information, to the extent permissible by law, while still providing enough information for community members to make safety decisions in light of the

danger. These alerts are sent by electronic mail directly to students, faculty, and staff of the college. In addition, a daily crime log listing all crimes reported to Public Safety is maintained in the Public Safety Office and is available for public review during normal business hours.

Immediate and Ongoing Assistance

Sex discrimination, sexual harassment, and sexual misconduct are grievous violations of an individual's dignity and may cause serious physical, psychological, and/or social harms. The college will seek to support any person impacted by sex discrimination, sexual harassment, or sexual misconduct. The college and the local community provide a variety of resources to assist and support individuals who have experienced sex discrimination, sexual harassment, and sexual misconduct. These resources, both immediate and ongoing, are available to all persons irrespective of their decision to report to the college or to law enforcement.

Support services that may be available include, but are not limited to, connecting the individual with appropriate on campus and off campus counseling and support services, making changes to academic, living, transportation, and/or working arrangements to protect the individual from contact with the alleged perpetrator, assistance in filing a criminal complaint and providing information about restraining orders, and other available protections and services. The college will provide written notification to affected individuals about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the college and in the community. An individual does not need to report sexual misconduct to law enforcement or initiate a complaint with the college in order to receive support services from the college. The college will provide assistance in preserving materials relevant to a campus disciplinary proceeding regarding sexual assault. The Student Development and Campus Life Director of Student Conduct/Deputy Title IX Coordinator (contact Laura Zeiher at 218-299-3455 or lzeiher@cord.edu) will, upon request, provide a victim of sexual assault who chooses to transfer with information about support services at the institution to which she or he is transferring.

Hospital/health care sites where individuals can seek treatment for injuries, preventative treatment for STDs, access to a Sexual Assault Nurse Examiner, and other health services include:

Fargo/Moorhead

Sanford Medical Center 701-234-1777
801 Broadway N.
Fargo, ND 58122

Essentia Health 701-364-8401
3000 32nd Ave. S.
Fargo, ND 58103

Bemidji

Sanford Medical Center 218-751-5430
1300 Anne St.
Bemidji, MN 56601

Resources and support will also be made available to the respondent in sexual misconduct complaints. This includes, but is not limited to, notification of the availability of counseling, health services, mental health services, visa and immigration resources, assistance obtaining no contact orders, and legal assistance available in the community and on campus.

Those who are unsure where to go or what to do first are encouraged to contact the Counseling Center on the Moorhead campus and the Health Services Manager at CLV.

Note: Other support services are found in the Resources and Contact Information section on pages 6 - 10 of this policy.

General Provisions for all Complaint Procedures

Complaints of a violation of this policy received by the college will be processed according to the following Sexual Misconduct Complaint Procedure, Sex Discrimination and Sexual Harassment Complaint Procedure, or Procedure for Complaints involving Third Parties, depending on the nature of the allegations and the nature of the relationship between the college and the parties. Generally, complaints or incidents of retaliation involving an employee respondent will be processed by Human Resources and complaints involving a student respondent will be processed by the Office of Student Development and Campus Life.

Treatment of Parties

All parties involved in investigations and/or disciplinary proceedings related to sexual misconduct complaints will be treated with dignity and respect. Alleged victims will not be subjected to actions that suggest they are at fault or that the alleged crime or violation could have been avoided through different behavior. All parties involved in the complaint procedure will be provided with nonjudgmental support, including fair and respectful health care, counseling services, or referrals to such services. Upon request, counseling services are available to students and the Employee Assistance Program is available to faculty and staff. Each party may decide when and when not to repeat his or her account of an alleged incident of sexual misconduct.

Right to Access Description of Incident

Any individual who reports an incident of sexual misconduct to the college shall be provided access to her or his description of the incident as it was reported to the institution, subject to compliance with the requirements of FERPA, the Clery Act, Title IX, and other federal or state law. Requests for an individual's description of the incident shall be made to the Title IX Coordinator (218-299-3339 or titleix@cord.edu) or the Vice President and Dean for Student Development and Campus Life/Deputy Title IX Coordinator (218-299-3456 or lzeiher@cord.edu)

Conflicts

If either the complainant or respondent believes that any person who is involved in the process has a conflict of interest, she or he may make a request to the Title IX Coordinator, Peggy Torrance at 218-299-3339 or titleix@cord.edu or Student Development and Campus Life/Director of Student Conduct/Deputy Title IX Coordinator, Laura Zeiher at 218-299-3455 or lzeiher@cord.edu, that the individual not participate. Any such request should include a description of the alleged conflict of interest. If the Title IX Coordinator or the Student Development and Campus Life/Director of Student Conduct determines that conflict of interest exists, the Coordinator of Title IX or Student Development and Campus Life/Director of Student Conduct will take steps to ensure that no conflicts of interest exist regarding anyone involved investigating or otherwise resolving a complaint under this policy. If the Title IX Coordinator has a conflict of interest with respect to a complaint, the college's President or the President's designee shall appoint an alternate person to oversee adherence to this policy with respect to the complaint at issue. If the President is a party to the complaint or has a conflict of interest with respect to a complaint, the Chair of the Board of Regents for the college shall appoint an alternate person to oversee adherence to this policy with respect to the complaint at issue.

Responding to Requests for Confidentiality or Non-Action

Upon receiving a report of a violation of this policy, the college will seek the consent of the complainant to proceed using the procedures described in the policy. The college strives to honor any request that a complainant may make to keep any such report confidential or for the college not to investigate such a report, but the college also has a legal obligation to respond to reports and complaints timely and appropriately, and to report certain crimes in accordance with applicable federal and state law.

If the college decides that it has an obligation to initiate a complaint procedure regarding the alleged policy violation, it will notify the complainant before proceeding. The college will maintain confidentiality to the extent reasonably possible, subject to its need to conduct an investigation and respond to the situation in accordance with this policy. In all cases, the individuals investigating and responding to incidents or allegations of policy violations will share information about the incident or allegation, investigation and response within and outside the college

only on a “need to know” basis. However, complete confidentiality generally will not be possible. Accordingly, if a complainant is not certain that he or she wishes the college to initiate the response and resolution process, the complainant should contact a confidential resource.

Non-Participation and Silence

If, at any time during the complaint procedure, either party decides not to participate, the college will proceed with the complaint process and make a determination based upon the information available. Silence in response to an allegation will not necessarily be viewed as an admission of the allegation, but may leave the complainant’s allegations undisputed.

Timelines

Generally, the college will complete the investigation within 45 calendar days and adjudication processes outlined below within 15 calendar days of receiving a complaint or report of a violation of this policy. Some complaints, however, may take longer to investigate or resolve, for example when there are a large number of witnesses, when there is a concurrent legal investigation, during holidays or college breaks, when there are difficulties in scheduling meetings of the parties and college officials, and other unforeseen circumstances. . The college is committed to investigating and resolving all matters as promptly as possible and strives to meet the timing requirements set forth in these procedures. However, in some cases, temporary extensions to the timing requirements may be necessary. The Title IX Coordinator or Student Development and Campus Life Director of Student Conduct/Deputy Title IX Coordinator may grant reasonable extensions to timing requirements in these procedures when warranted by the circumstances. If the investigation and/or adjudication exceed the stated timelines, the parties will receive written notice of the delay, including the reason for the delay.

Sexual Misconduct Complaint Procedure

Procedures for complaints of sexual harassment processed under a separate procedure that can be found on page 25.

Complaints involving allegations of sexual misconduct and sexual harassment will be handled under the sexual misconduct complaint procedure.

Initiation of Complaint

Complaints are generally initiated by individuals who believe that their rights under this policy have been violated, but any individual may initiate a complaint. In addition, circumstances may arise in which the college may proceed without a complainant. The Title IX Coordinator, the Operations Director at CLV, Student Development and Campus Life Director of Student Conduct/Deputy Title IX Coordinator, the Associate Dean of the College, the Athletic Director, and the Director of Residence Life, are available to assist in filing a complaint. Complaint forms are available from the Title IX Coordinator, the Director of Operations at CLV, the Office of Student Development and Campus Life, Human Resources, Academic Affairs Office, Public Safety or on the college’s website.

Advisor

The complainant and the respondent have the right to be assisted by an advisor of their choice. The purpose of the advisor is to support a complainant or respondent in the complaint process. Guidelines for advisors are as follows:

- 1) Advisors may confer with the person being advised, but they may not actively participate in the process. The advisor may accompany the complainant or respondent to all meetings relating to the complaint procedure. The advisor may not appear in lieu of the complainant or respondent or speak on his or her behalf in either in-person or written communications to the college. The advisor may not address the

investigator, adjudicator, witnesses (other than his or her own advisee), or appeal official, and may not interrupt or otherwise delay the complaint proceeding.

- 2) Both the advisor and the individual for whom they serve as an advisor are expected to maintain the confidentiality of any student education records or other confidential information.
- 3) Violations of confidentiality or other forms of interference with the complaint procedure by the advisor may result in disqualification of an advisor.
- 4) The college will provide the parties with information regarding the selection of an advisor by another party, including if the other party's advisor is an attorney.

Availability of Formal and Informal Resolution Options

When a complainant or the college chooses to move forward with a complaint, there are two avenues for resolution of an alleged policy violation: formal and informal resolution. The complainant or the college has the option to proceed informally, when permissible. If a complaint is processed informally, the complainant, respondent or college has the option to move the complaint to the formal process at any time. *Mediation or other forms of informal resolution are never permissible in cases involving allegations of sexual assault.*

Informal Process and Resolution

If an informal resolution is pursued, the Title IX Coordinator (or her/his designee) will attempt to facilitate a resolution that is agreeable to all parties.

Any party to the complaint has the option to discontinue the informal process and request a formal investigation at any point. The college always has the discretion to initiate a formal investigation. If at any point during the informal process, the complainant, the respondent, or the college wishes to cease the informal process and to proceed through the formal process, the informal process will stop and the formal process outlined below will be initiated.

Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the college to stop, remedy, and prevent policy violations. To facilitate such a resolution, the Title IX Coordinator (or designee) will make a recommended resolution that may include a variety of institutional responses or requirements, including, but not limited to, the following: warning, behavioral contracts, change in housing or office location, restitution, required attendance at educational programs, required assessment or counseling, the respondent's education or employment record including a finding that this policy was violated, restriction of privileges, and/or probation.

If all parties to the complaint and the college agree in writing to the terms and conditions of a recommended resolution within three (3) business days from receipt of the recommended resolution, the case will be resolved without further process under this procedure. If all parties to the complaint do not agree in writing to the terms and conditions of the recommended resolution within three (3) business days, the complaint will be referred to the formal process.

Criminal Complaint

An individual may initiate a criminal complaint to the police at any time. Assistance will be provided by the Director of Public Safety on the Moorhead campus and the Director of Operations at CLV in these cases. The college process will continue even when a criminal complaint is filed.

Formal Process

The Formal Process is generally initiated upon the request of the complainant, by the filing of a formal complaint. The college may also decide that it has an obligation to investigate a complaint and proceed without a named complainant in order to provide a safe and nondiscriminatory environment for all students,

faculty and staff. The complainant and respondent shall be given timely notice of all meetings and proceedings and advised who will be present. The investigation and adjudication will be conducted by individuals who receive training on issues related to sexual misconduct (including sexual assault, dating violence, domestic violence, and stalking) and on how to conduct a complaint process that protects the safety of victims, protects the rights of each party, and promotes accountability.

Investigation

Normally, the investigation process shall include the following elements. The college reserves the right to modify the process if the circumstances of a particular complaint require it to do so.

Appointment of Investigator(s)

The Title IX Coordinator, or his or her designee, will appoint one or more investigators. The complainant and the respondent will be notified in writing of the identity of the investigator(s) assigned to their case.

Right to Request Removal of Investigator(s)

The complainant or respondent may request the removal of an investigator(s) on the grounds of personal bias or other conflict of interest. Such requests may be made by submitting a written statement to the Title IX Coordinator or designee setting forth the basis for the request no later than two (2) business days after receiving the notice of the identity of the adjudicator(s) assigned to the matter. The Title IX Coordinator or designee will determine whether to accept or deny the request. If the request is accepted, a replacement will be appointed and notice will be provided to the complainant and respondent. The decision of the Title IX Coordinator or designee with regard to the request is final and is not appealable.

Complainant's Account of the Alleged Misconduct

The complainant has the right to determine when and when not to give an account of the misconduct; the complainant also has the right to participate or decline to participate in the process. Non-participation may hinder the ability of the college to undertake an investigation. If the complainant does participate in the process, the investigator(s) shall interview the complainant to obtain the complainant's account of the alleged misconduct. In addition, the complainant shall be invited to advise the investigator(s) of any witnesses he/she believes should be interviewed, and/or other evidence that he/she believes should be reviewed by the investigator(s). The investigator(s) may also request additional information from the complainant. As soon as possible after the interview, the investigator(s) shall prepare a written summary of the information provided by the complainant. The complainant shall have the opportunity to review the summary, make any necessary corrections, and then affirm it in writing as an accurate representation of the complainant's account and must do so within two (2) business days of receiving notification of the availability of the summary.

Respondent's Account of the Alleged Misconduct

The respondent has the right to participate or decline to participate in the process. Silence in response to an allegation will not necessarily be viewed as an admission of the allegation, but may leave the complainant's allegations undisputed. If the respondent does participate, the investigator(s) shall interview the respondent to obtain the respondent's account of the alleged misconduct. In addition, the respondent shall be invited to advise the investigator(s) of any witnesses he/she believes should be interviewed, and/or other evidence that he/she believes should be reviewed by the investigator(s). The investigator(s) may also request additional information from the respondent. As soon as possible after the interview, the investigator(s) shall prepare a written summary of the information provided by the respondent. The respondent shall have the

opportunity to review the summary, make any necessary corrections, and then affirm it in writing as an accurate representation of the respondent's account, and must do so within two (2) business days of receiving notification of the availability of the summary.

Witness Statements, if applicable

The investigator(s) may interview any witnesses who may have information of relevance to the alleged misconduct. The investigator(s) may exercise discretion in the selection of witnesses to be interviewed. The naming of a witness by either party does not obligate the investigator(s) to interview that proposed witness. The investigator may conduct additional interviews with witnesses who were not suggested by either party. The investigator(s) may prepare a written summary of the information provided by the witness. If such a summary is prepared, the witness shall have the opportunity to review the summary, make any necessary corrections, and then affirm it in writing as an accurate representation of his or her statement, and must do so within two (2) business days of receiving notification of the availability of the summary.

Other Evidence

The investigator(s) may request and review other evidence of relevance to the alleged misconduct, such as video recordings, photographs, text messages, or other artifacts.

Investigator's Summary of the Investigation

The investigator(s) will prepare a written summary of the investigation to guide the adjudicator in her/his review of the information gleaned from interviews, affirmed summaries, and any other evidence provided. The complainant or respondent and their advisor together will be provided with notice of the opportunity to review the summary in the presence of the Title IX Coordinator, or Student Development and Campus Life Director of Student Conduct/Deputy Title IX Coordinator or designee.

Right of Each Party to Submit Written Response to the Investigation Summary

The investigation summary will be made available for review by the complainant, respondent, and their designated advisors. Confidential information in the investigation summary that cannot be shared with the parties and/or adjudicators may be redacted from the file in accordance with applicable law. The investigation summary cannot be copied or removed from the location provided by the college for review purposes.

Following review of the investigation summary, each party may provide a written response to the investigation summary containing any comments or additional information the party would like the adjudicator(s) to consider. Each party's response shall not exceed 2000 words in length, must be in direct relevance to the investigation, and must be submitted within three (3) business days after the investigation file has been made available to the party. While the parties may be assisted by their advisors, the written response must be submitted by the party and cannot be submitted by someone else on a party's behalf. Once both parties have had the opportunity to review the investigation summary and submit responses, each party shall have an opportunity to review the other party's response to the investigation summary and provide a written rebuttal of not more than 1000 words within two (2) business days of the response being made available.

Additional provisions for investigation process

If a criminal complaint has been filed, the college's procedures, including any investigation, may be temporarily delayed up to two weeks to allow law enforcement to gather evidence. Such delay may only occur at the request of law enforcement and shall not be any longer than necessary for

law enforcement to complete the gathering of evidence. In no case will the college wait for the conclusion of a criminal investigation or criminal proceeding to begin its own investigation.

In cases where there is an unknown assailant or it is determined that there is an on-going threat to the campus community, the college may notify law enforcement authorities of this information.

Adjudication

Normally, the adjudication process shall include the following elements. The college reserves the right to modify the process if the circumstances of a particular complaint require it to do so.

Appointment of Adjudicator(s)

The Title IX Coordinator, or his or her designee, will appoint an adjudicator to review the investigation summary and make a determination as to whether it is more likely than not that a violation of this policy occurred, and if so, what sanctions are warranted. The adjudicator appointed to a case may not also serve as an investigator for the same case. Normally, only a single adjudicator will be appointed; however, the college may appoint additional adjudicators to assist in making a determination in any given case. The complainant and the respondent will be notified in writing of the identity of the adjudicator(s) assigned to their case.

Right to Request Removal of Adjudicator(s)

The complainant or respondent may request the removal of an adjudicator(s) on the grounds of personal bias or other conflict of interest. Such requests may be made by submitting a written statement to the Title IX Coordinator or designee setting forth the basis for the request no later than two (2) business days after receiving the notice of the identity of the adjudicator(s) assigned to the matter. The Title IX Coordinator or designee will determine whether to accept or deny the request. If the request is accepted, a replacement will be appointed and notice will be provided to the complainant and respondent. The decision of the Title IX Coordinator or designee with regard to the request is final and is not appealable.

Determination

The adjudicator(s) will render a decision based upon the investigation summary, any response to the investigation summary submitted by the complainant and/or respondent, and any other information the adjudicator(s) may deem appropriate and which is made available to both the complainant and respondent. The adjudicator may consult with the Title IX Coordinator or designee. The adjudicator(s) will use a preponderance of the evidence ("more likely than not") standard in determining whether a violation of this policy has occurred.

If the decision is made that there is not sufficient basis to believe that it is more likely than not that the respondent violated this policy, the parties will be notified of that determination and the complainant will be informed of other resources that may be available to the complainant.

If the decision is made that it is more likely than not that the respondent violated this policy, the adjudicator(s) shall determine appropriate sanction(s) from those noted within this policy. The determination will include steps to take to prevent recurrence of any such violations, and as appropriate, remedies for the complainant.

Sanctions for Student Respondents

Sanctions imposed upon students found to have violated this policy include expulsion, suspension, probation, monetary fines/restitution, removal from housing, warnings/reprimands, educational

sanctions, counseling, ban from campus, removal from housing or change in location of housing, dismissal/termination/restrictions regarding college employment, restitution, issuance of no contact orders, and restrictions in access to college facilities and activities.

Sanctions for Staff or Faculty Respondents

Appropriate sanctions for staff or faculty members found to have violated this policy include disciplinary warnings, unpaid suspensions, training programs, suspension of promotion and salary increments, loss of prospective benefits, major fines, reduction in salary, suspension from service, suspension or withdrawal of privileges, demotion and/or separation from employment, and other sanctions appropriate to the specific case.

Remedies and Protective Measures

At any time after a report of a potential violation of this policy has been received by the college, the college may take immediate interim measures as it finds appropriate to protect a complainant or to meet its obligations to maintain a safe, nondiscriminatory learning environment for students. The college may take such steps even when a complainant asks that the college keep a reported violation of this policy confidential and/or that it not investigate the matter. Such measures will vary based on the particular facts and circumstances and based on a complainant's confidentiality preferences, but may include:

1. Establishing a "no contact" order to prohibit any form of contact either between two individuals or to prohibit one individual from contacting another.
2. Prohibiting an individual from being on campus or at college events.
3. Changing a student's or employee's status.
4. Changing work, class, or other schedules.
5. Providing assistance with academic issues.
6. Issuing a timely warning of any substantial threat or danger to the community.
7. Making information about and providing assistance with respect to orders for protection and harassment restraining orders, including enforcement of such orders.

To request an accommodation or protective measure, complainants should contact the Title IX Coordinator, Peggy Torrance at 218-299-3339 or titleix@cord.edu or the Student Development and Campus Life Director of Student Conduct/Deputy Title IX Coordinator, Laura Zeiher at 218-299-3455 or lzeiher@cord.edu. The college will maintain as confidential any accommodations or protective measures provided to the complainant, to the extent that maintaining such confidentiality will not impair the ability of the college to provide the accommodations or protective measures. The college will also solicit feedback from the complainant as to the effectiveness of the accommodations or protective measures, and adjust the arrangements if necessary to ensure effectiveness.

In addition to the interim measures listed above, and when deemed appropriate, the college will take corrective action through the imposition of individual and community remedies designed to maximize a complainant's access to educational, co-curricular, employment or volunteer activities. Remedies may include targeted or broad-based educational programming or training.

Notification of Outcome

The parties shall receive a simultaneous written notice of the outcome of the complaint, to include the determination of the adjudicator(s); where a violation is deemed to have occurred, the sanctions imposed; rationales for the determination and sanctions; procedures for appeal and the date by which the result becomes final as provided below; any other steps the college has taken to eliminate the conduct and prevent its recurrence; and, in the complainant's notice, remedies offered or provided to the complainant.

The determination of the adjudicator(s) may be appealed as provided below. In the event that no appeal is filed within the time periods prescribed below, the decision will be final.

Appeal

Following the communication of the decision by the adjudicator(s), the complainant or respondent (other than individuals who are not either students or employees of the college) may request an appeal of the decision. The request for an appeal must be submitted in writing to the Title IX Coordinator or designee within three (3) business days of receiving the notice of outcome. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The basis for an appeal will be limited to the following:

1. Newly-discovered evidence which may substantially affect the outcome of the adjudication;
2. A procedural error, which substantially affected the outcome of the adjudication; and
3. The sanction was too lenient or too severe.

If the Title IX Coordinator or designee determines that the appealing party has demonstrated that one of the above grounds for appeal is satisfied, the matter will be returned for further review of the investigation summary by a new adjudicator(s). If the grounds for appeal relate to the investigation, or warrant additional investigation, the Title IX Coordinator or designee may refer the matter to further investigation before proceeding.

In the case of a faculty respondent, the adjudicator for an appeal shall be the president or designee. In the case of a faculty respondent where the sanction, after appeal, is the revocation of tenure, a second appeal may be made. The adjudicative body will be, in this case, the Executive Committee of the Board of Regents. The method of requesting both appeals is as described above. Such cases are handled under the college's Sexual Misconduct Policy rather than the procedures for other cases of faculty discipline/dismissal, and as is noted in the Faculty Handbook.

If there is not adequate reason to believe that one or more grounds for appeal have been satisfied, the Title IX Coordinator may dismiss the appeal. This decision is final and is not appealable.

Sex Discrimination and Sexual Harassment Complaint Procedure

The following process shall generally apply to complaints of a violation of this policy received by the college that involve allegations of sex discrimination and sexual harassment (other than allegations of sexual assault, domestic violence, dating violence and stalking) by or against a student, faculty, or staff member.

Individuals involved in the investigation and adjudication of sexual harassment complaints will have training and/or experience in handling such matters.

Initiation of Complaint

Any individual may initiate the complaint procedure. Circumstances may arise in which the college may also decide that it has an obligation to investigate a complaint and proceed without a named complainant in order to provide a safe and nondiscriminatory environment for all students, faculty and staff. When a complaint is made under this policy, the college may ask that any report be confirmed in a written and signed complaint form. The Title IX Coordinator, Student Development and Campus Life Director of Student Conduct/Deputy Title IX Coordinator, the Associate Dean of the College, the Athletic Director, the Director of Residence Life, the Director of Public Safety, and the Human Resources Representative at the Concordia Language Villages are available to assist in the completion of this form.

Availability of Formal and Informal Resolution Options

When a complainant or the college chooses to move forward with the complaint procedure set forth in this policy, there are two avenues for resolution of an alleged policy violation: formal and informal resolution. The complainant or the college has the option to proceed informally, when permissible. If a complaint is processed informally, the complainant, respondent or college has the option to move the complaint to the formal process at any time.

The Title IX Coordinator, or designee, is available to explain the informal and formal resolution procedures. In addition, the Title IX Coordinator or designee may also directly refer the matter to other institutional disciplinary procedures. This referral option will generally be used when: (1) the type of behavior that is alleged to have occurred does not constitute a violation of this policy or (2) the behavior that is alleged to have occurred is better handled under another disciplinary procedure. Every attempt will be made to determine the appropriate resolution in a timely manner.

Informal Process and Resolution

If an informal resolution is pursued, the Title IX Coordinator or designee will attempt to facilitate a resolution that is agreeable to all parties.

Any party to the complaint has the option to discontinue the informal process at any time and request a formal investigation. The college also always has the discretion to initiate a formal investigation. If at any point during the informal process, the complainant, the respondent, or the college wishes to cease the informal process and to proceed through the formal process, the informal process will stop and the formal process outlined below will be invoked.

Any informal resolution must adequately address the concerns of the complainant, as well as the rights of the respondent and the overall intent of the college to stop, remedy, and prevent policy violations. To facilitate such a resolution, the Title IX Coordinator or designee will make a recommended resolution that may include a variety of institutional responses or requirements, including, but not limited to, the following: warning, behavioral contracts, change in housing or office location, restitution, required attendance at educational programs/trainings, required assessment or counseling, an entry in the respondent's education or employment record including a finding that this policy was violated, restriction of privileges, and/or probation.

If all parties to the complaint and the college agree in writing to the terms and conditions of a recommended resolution within three (3) business days, the case will be resolved without further process under this procedure. If all parties to the complaint do not agree in writing to the terms and conditions of the recommended resolution within three (3) business days, the complaint will be referred to the formal process.

Formal Process

If a complaint is not processed through the informal process, or is not resolved through the informal process outlined above, the complaint shall be processed according to the formal complaint procedure described below:

Initiation of Complaint

Complaints are generally initiated by individuals who believe that their rights under this policy have been violated, but any individual may initiate a complaint. In addition, circumstances may arise in which the college may proceed without a complainant. The Title IX Coordinator, the Operations Director at CLV, Director of Student Conduct/Deputy Title IX Coordinator, the Associate Dean of the College, the Athletic Director, and the Director of Residence Life are available to assist in filing a complaint. Complaint forms are available from the Title IX

Coordinator, the Director of Operations at CLV, the Office of Student Development and Campus Life, Human Resources, Academic Affairs Office, Public Safety or on the college's website.

Advisor

The complainant and the respondent have the right to be assisted by an advisor of their choice. The purpose of the advisor is to support a complainant or respondent in the complaint process. Guidelines for advisors are as follows:

- 1) Advisors may confer with the person being advised, but they may not actively participate in the process. The advisor may accompany the complainant or respondent to all meetings relating to the complaint procedure. The advisor may not appear in lieu of the complainant or respondent or speak on his or her behalf in either in-person or written communications to the college. The advisor may not address the investigator, adjudicator, witnesses (other than his or her own advisee), or appeal official, and may not interrupt or otherwise delay the complaint proceeding.
- 2) Both the advisor and the individual for whom they serve as an advisor are expected to maintain the confidentiality of any student education records or other confidential information.
- 3) Violations of confidentiality or other forms of interference with the complaint procedure by the advisor may result in disqualification of an advisor.
- 4) The college will provide the parties with information regarding the selection of an advisor by another party, including if the other party's advisor is an attorney.

Investigation

The investigation will be conducted by one or more investigators appointed by the Title IX Coordinator. Both parties shall be notified in writing of the appointment of the investigator.

The investigator(s) shall interview the complainant, respondent and/or other witnesses and may request additional information from the complainant, respondent or others. In addition, the complainant and respondent shall have an opportunity to advise the investigator(s) of any witnesses they believe should be interviewed, and/or other evidence that they believe should be reviewed by the investigator(s).

Right to Request Removal of Investigator(s)

The complainant or respondent may request the removal of an investigator(s) on the grounds of personal bias or other conflict of interest. Such requests may be made by submitting a written statement to the Title IX Coordinator or designee setting forth the basis for the request no later than two (2) business days after receiving the notice of the identity of the adjudicator(s) assigned to the matter. The Title IX Coordinator or designee will determine whether to accept or deny the request. If the request is accepted, a replacement will be appointed and notice will be provided to the complainant and respondent. The decision of the Title IX Coordinator or designee with regard to the request is final and is not appealable.

Adjudication

Normally, the adjudication shall include the following:

Appointment of Adjudicator

Upon completion of the investigation, an adjudicator will be appointed by the Title IX Coordinator or designee.

The adjudicator will review the investigation summary, make a determination as to whether it is more likely than not that a violation of this policy occurred, and if so, what sanctions are warranted. The college reserves the right to appoint additional adjudicators to assist in making a determination.

Right to Request Removal of Adjudicator(s)

The complainant or respondent may request the removal of an adjudicator(s) on the grounds of personal bias or other conflict of interest. Such requests may be made by submitting a written statement to the Title IX Coordinator or designee setting forth the basis for the request no later than two (2) business days after receiving the notice of the identity of the adjudicator(s) assigned to the matter. The Title IX Coordinator or designee will determine whether to accept or deny the request. If the request is accepted, a replacement will be appointed and notice will be provided to the complainant and respondent. The decision of the Title IX Coordinator or designee with regard to the request is final and is not appealable.

Review of Investigation Summary

The investigation summary will be made available to and reviewed by the adjudicator(s) following his/her/their appointment. Upon review of the investigation summary, the adjudicator(s) may, in his/her/their discretion, request additional investigation by the investigator(s).

Determination

The adjudicator(s) will render a decision based upon the investigation file and any other information the adjudicator(s) deems appropriate. The adjudicator may consult with the Title IX Coordinator. The adjudicator(s) will use a preponderance of the evidence (“more likely than not”) standard in determining whether a violation of this policy has occurred.

If the decision is made that there is not sufficient basis to establish that it is more likely than not that the respondent violated this policy, the parties will be notified of that determination and the complainant will be informed of other resources that may be available to the complainant.

Sanctions

If it is determined that the respondent violated this policy, the adjudicator(s) shall determine appropriate sanction(s). The determination will include steps to take to prevent recurrence of any such violations, and as appropriate, remedies for the complainant.

Sanctions imposed upon students found to have violated this policy include expulsion, suspension, probation, monetary fines/restitution, removal from housing, warnings/reprimands, educational sanctions, counseling, ban from campus, removal from housing or change in location of housing, dismissal/termination/restrictions regarding college employment, restitution, issuance of no contact orders, and restrictions in access to college facilities and activities.

Appropriate sanctions for staff or faculty members found to have violated this policy include disciplinary warnings, unpaid suspensions, training programs, suspension of promotion and salary increments, loss of prospective benefits, major fines, reduction in salary, suspension from service, suspension or withdrawal of privileges, demotion and/or separation from employment, and other sanctions appropriate to the specific case.

Notification of Outcome

The parties shall receive a simultaneous written notice of the outcome of the complaint, to include the determination of the adjudicator(s); where a violation is deemed to have occurred, in the respondent's notice, any imposition of sanctions, and in the complainant's notice, any imposition of sanctions that directly relates to the complainant; procedures for appeal and the date by which the result becomes final, any other steps the college has taken to eliminate the conduct and prevent its recurrence; and, in the complainant's notice, remedies offered or provided to the complainant.

Appeal

Following the communication of the decision by the adjudicator(s), the complainant or respondent (other than individuals who are not either students or employees of the college) may request an appeal of the decision. The request for an appeal must be submitted in writing to the Title IX Coordinator or designee within three (3) business days of receiving the notice of outcome. Failure to file a timely appeal constitutes a waiver of any right to an appeal.

The basis for an appeal will be limited to the following:

1. Newly-discovered evidence which may substantially affect the outcome of the adjudication;
2. A procedural error, which substantially affected the outcome of the adjudication; and
3. The sanction was too lenient or too severe.

If the Title IX Coordinator or designee determines that the appealing party has demonstrated that one of the above grounds for appeal is satisfied, the matter will be returned for further review of the investigation summary by a new adjudicator(s). If the grounds for appeal relate to the investigation, or warrant additional investigation, the Title IX Coordinator or designee may refer the matter to further investigation before proceeding.

In the case of a faculty respondent, the adjudicator for an appeal shall be the president or designee. In the case of a faculty respondent where the sanction, after appeal, is the revocation of tenure, a second appeal may be made. The adjudicative body will be, in this case, the Executive Committee of the Board of Regents. The method of requesting both appeals is as described above.

If there is not adequate reason to believe that one or more grounds for appeal have been satisfied, the Title IX Coordinator may dismiss the appeal. This decision is final and is not appealable.

Procedure for Complaints Involving Third Parties

When the college receives a complaint of a violation of this policy that involve allegations of sex discrimination, sexual harassment or sexual misconduct by a third party (an individual who is not a student, faculty, or staff member), the college, in consultation with the Title IX Coordinator or designee, may exercise discretion to determine an appropriate investigative and adjudication process based on the facts and circumstances. The college will document the report received, the process used, and the outcome and will submit such information to the Title IX Coordinator or designee. If it is determined that it is more likely than not that a third party violated this policy, appropriate sanction(s) may include but are not limited to: conditions upon presence on campus or at college events, no trespass and no contact orders, or other steps deemed necessary to protect the complainant and the campus community. The college will notify the parties of the outcome of the complaint. Third parties may not appeal the decision made. Any party with concerns about the process or outcome, however, should consult with the Title IX Coordinator or designee.

Prohibition of Retaliation

The college prohibits retaliation against any individual who makes a good faith report of a potential violation of this policy, who supports another person's report, or who acts as a witness in any investigation into a complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Any concerns of

retaliation should be reported to the Human Resources Director/Title IX Coordinator or the Student Development and Campus Life Director of Student Conduct/Deputy Title IX Coordinator. The college will take appropriate action, up to and including termination for employees, or dismissal for students, against any individual who retaliates against another person in violation of this policy.

Alternative Procedures

Nothing in this policy is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but are not limited to, filing a complaint with the United States Department of Education's Office for Civil Rights (OCR).

The OCR office for colleges in the state of Minnesota is:

U.S. Department of Education

Office for Civil Rights

Citigroup Center

500 W. Madison Street, Suite 1475

Chicago, IL 60661-4544

Tel: 312.730.1560

TDD: 877.521.2172

Email: OCR.Chicago@ed.gov

College policies are subject to change at the discretion of the college.

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