

Bethany Lutheran College Mankato, MN

Sexual Misconduct Policy

Effective August 1, 2024

Bethany Lutheran College is committed to maintaining high standards of respect and civility, including a learning and working environment that is free from unlawful harassment and discrimination. This Policy outlines the College's commitment to ensuring a campus free from sex discrimination, sexual harassment, and sexual misconduct, the steps for recourse for those individuals who have been subject to sex discrimination, sexual harassment, and sexual misconduct, and the procedures for determining whether a violation of College Policy occurred. Nothing in this Policy is intended to create a contract between the College and any student, employee, independent contractor, vendor, or other individual or entity.

Bethany Lutheran College Sexual Misconduct Policy

TABLE OF CONTENTS

<u>SECTION HEADING</u>	<u>PAGE</u>
I. INTRODUCTION	2
II. NOTICE OF NON-DISCRIMINATION	2
III. SCOPE OF THE POLICY	4
IV. DEFINITIONS	6
V. RESPONSIBILITIES OF TITLE IX COORDINATOR AND TITLE IX TEAM	15
VI. CONFIDENTIALITY	16
VII. IMMEDIATE AND ONGOING ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT	18
VIII. REPORTING SEXUAL MISCONDUCT	19
IX. INITIAL RESPONSE TO A REPORT OF SEX DISCRIMINATION, SEXUAL HARASSMENT, OR SEXUAL MISCONDUCT	23
X. INFORMAL RESOLUTION PROCESS	27
XI. GENERAL PRINCIPLES GOVERNING COMPLAINT RESOLUTION PROCESS	30
XII. COMPLAINT RESOLUTION PROCESS TO ADDRESS SEX DISCRIMINATION COMPLAINTS AND COMPLAINTS OF SEXUAL HARASSMENT NOT INVOLVING STUDENTS (PROCESS A)	35
XIII. COMPLAINT RESOLUTION PROCESS TO ADDRESS COMPLAINTS OF SEXUAL HARASSMENT AND SEXUAL MISCONDUCT INVOLVING STUDENTS (PROCESS B)	43
XIV. RECORDKEEPING	54
XV. COLLEGE REPORTING OBLIGATIONS	55
XVI. COOPERATION WITH LAW ENFORCEMENT	55
XVII. ALTERNATIVE COMPLAINT PROCEDURES	55
APPENDIX A: MINNESOTA CRIME VICTIMS BILL OF RIGHTS	56
APPENDIX B: COLLEGE AND COMMUNITY RESOURCES	57

Bethany Lutheran College Sexual Misconduct Policy

I. INTRODUCTION

Bethany Lutheran College (the “College”) is committed to maintaining high standards of respect and civility, including a learning and working environment that is free from unlawful harassment and discrimination. Harassment and discrimination, in all its forms, is contrary to God’s moral law, subverts the educational mission of the College, undermines the sense of community, and interferes with the social and spiritual development of students and employees. All members of the College community are expected to engage in behaviors that support the values of the College and that do not infringe upon the rights of others and to assist in creating a safe, welcoming and respectful campus environment.

This Policy outlines the College’s commitment to ensuring a campus free from sex discrimination, sexual harassment, and sexual misconduct, and the steps for recourse for those individuals who have been subject to sex discrimination, sexual harassment, or sexual misconduct, and the procedures for determining whether a violation of College Policy occurred. This Policy applies to all forms of sex discrimination, sexual harassment, and sexual misconduct, including Sexual Assault, Domestic Violence, Dating Violence, Stalking, Sexual Exploitation, nonconsensual distribution of sexual images, sexual extortion, nonconsensual dissemination of a deepfake depicting intimate parts or sexual acts, and sex trafficking. For questions regarding the College’s more general nondiscrimination Policy, please contact the Manager of Human Resources.

The College will regularly review and evaluate the Policy, including among other things, any changes in legal requirements, and will update the Policy as appropriate when circumstances dictate such action. The Policy is distributed annually to all students and employees of the College and is posted in the following locations: the Employee Handbook, the Student Guidebook, on-line at MyBLC, student health services, athletic training office, and Christian Family Counseling. The College will also provide this Policy to any student, employee, or other individual who reports to the College that they have been a victim of sex discrimination, sexual harassment, and sexual misconduct.

Bethany Lutheran College is a Christian community that is part of the Evangelical Lutheran Synod. In the area of sexuality, the College expects students to follow Biblical guidelines for intimacy and for sexual relationships. See the Sexuality Section of the Standards of Conduct in the student Guidebook. While some portions of this Policy may address intimate or sexual activities outside of marriage, such discussions should not be seen as condoning these actions. At the same time, an individual’s engagement in intimate or sexual activities outside of marriage does not excuse sex discrimination, sexual harassment, and sexual misconduct carried out against that individual. The College is committed to protecting the members of its community against sex discrimination, sexual harassment, and sexual misconduct—regardless of the context in which it arises.

II. NOTICE OF NON-DISCRIMINATION

Bethany Lutheran College does not unlawfully discriminate on the basis of sex, color, age, national origin, marital status, familial status, pregnancy, citizenship, creed, genetic information, disability, veteran status, status with regard to public assistance, membership in a local human rights commission, or other categories protected by law, in the administration of its educational policies,

Bethany Lutheran College Sexual Misconduct Policy

admissions policies, and financial aid programs. As permitted by law, Bethany has the right to exercise discretion in employment to employ persons who share and are committed to the Biblical tenets of the Evangelical Lutheran Synod and the values and mission of the College. Bethany has the right to exercise discretion in regards to education, employment, housing or use of facilities, and other school-administered programs which is consistent with the Biblical tenets of the Evangelical Lutheran Synod and the values and mission of the College. The College adheres to the requirements of [Title IX of the 1972 Education Amendments](#), [Sec. 504 of the Rehabilitation Act of 1973](#), and the [ADA policy of 1990](#).

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” The College is required by Title IX and its regulations not to engage in sex discrimination in its education program or activity, including admissions and employment. Sex discrimination is conduct based upon an individual’s sex that excludes an individual from participation in, denies the individual the benefits of, or treats the individual differently, in an education program or activity. Sexual harassment is a form of sex discrimination. In accordance with Title IX and its regulations, this Policy addresses the College’s prohibition of the following forms of sex discrimination: Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Stalking, and Sexual Exploitation. Sex discrimination in any form will not be tolerated by the College. The College will promptly and equitably respond to all reports of sex discrimination, sexual harassment, and sexual misconduct in order to take steps to eliminate the misconduct, prevent its recurrence, and address its effects on any individual or the community.

In accordance with Minnesota Campus Sexual Misconduct Policy Law, this Policy also addresses the College’s prohibition of sexual misconduct, which includes sexual violence, intimate partner violence, domestic violence, sexual assault, sexual harassment, nonconsensual distribution of sexual images, sexual extortion, nonconsensual dissemination of a deepfake depicting intimate parts or sexual acts, sex trafficking, or stalking.

In accordance with Title IX and its regulations, the College also prohibits retaliation, including peer retaliation, against any employee, student, or third-party for the purpose of interfering with any right or privilege secured by Title IX or its operating regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a resolution proceeding does not constitute retaliation.

The Human Resources and Student Affairs offices will undertake educational efforts to inform employees and students of their responsibilities regarding such behavior, as well as how to identify and eliminate potential sex discrimination, sexual harassment, and sexual misconduct, and what steps can be taken if instances of sex discrimination, sexual harassment, and sexual misconduct are experienced.

Bethany Lutheran College Sexual Misconduct Policy

Inquiries or complaints about Title IX, sex discrimination, sexual harassment, sexual misconduct may be directed to the College's Title IX Coordinator. Inquiries or complaints regarding other forms of discrimination may be directed to the Manager of Human Resources.

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Title IX Coordinator
Bethany Lutheran College
Old Main 236
Mankato, MN 56001
Phone: (504) 344-7745
Email: titleix@blc.edu

Josh Pederson
Manager of Human Resources
Bethany Lutheran College
Old Main 205
Mankato, MN 56001
Phone: (504) 344-7840
Email: hr@blc.edu

Inquiries or complaints may also be directed to the U.S. Department of Education's Office for Civil Rights. The OCR office for Minnesota is located 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

III. SCOPE OF THE POLICY

This Policy applies to all College community members, including students, employees, faculty, administrators, staff, trustees, volunteers, vendors, independent contractors, applicants for admission or employment, visitors and any individuals regularly or temporarily employed, studying, living, visiting, conducting business or having any official capacity with the College or on College property. This Policy may also apply to individuals who interact with College community members under certain circumstances. All College community members are required to follow College policies and local, state, and federal law.

This Policy applies to sex discrimination, sexual harassment, or sexual misconduct committed by or against a College community member, and applies to conduct that occurred on College property, owned or leased, including College-hosted social functions, or events sponsored by the College but held at other locations, and any buildings owned or controlled by student organizations. This

Bethany Lutheran College Sexual Misconduct Policy

Policy also applies to any off-campus conduct, including conduct outside of the United States, that interferes with the rights of students and employees to be free from a hostile education or employment environment within the College's education program and activities.

Although the College maintains its right to teach, uphold and apply its religious beliefs with regard to sexual orientation and gender identity, the College has no tolerance for any form of sex discrimination, sexual harassment, and sexual misconduct committed against any individual. Individuals are strongly encouraged to report all incidents of sex discrimination, sexual harassment, and sexual misconduct, even when the individual has a concern that they have engaged in conduct that may violate provisions of the College's Standards of Conduct relating to sexual activity. See Section VIII (F) (Amnesty) below for more information.

The Process described in Section XII of this Policy applies to all complaints of sex discrimination, sexual harassment, and sexual misconduct, except complaints of sexual harassment, or sexual misconduct involving student Complainants or Respondents. The process described in Section XIII of this Policy applies to complaints of sexual harassment and sexual misconduct involving student Complainants or Respondents. Note that *sex discrimination, sexual harassment, and sexual misconduct* have different definitions. For clarity about the definition of each term, please consult the definitions in Section IV, below.

The process described in Section XII of this Policy also applies to all complaints of retaliation related to sex discrimination, sexual harassment, and sexual misconduct, unless the retaliation complaint is consolidated with a complaint of sexual harassment involving a student Complainant or student Respondent. If the retaliation complaint is consolidated with a complaint of sexual harassment involving a student Complainant or student Respondent, the process described in Section XIII of this Policy applies.

The Informal Resolution Process described in Section X is available to resolve any complaints of sex discrimination, sexual harassment, or sexual misconduct.

In implementing this Policy, the College will treat Complainants and Respondents equitably. All provisions, rules, and practices under this Policy apply equally to both parties. Remedies will be designed to restore or preserve equal access to the College's education program and activities.

Violations detailed in this Policy can occur between individuals of the same or different sexes or genders.

All reports and complaints made under this Policy will be addressed within reasonably prompt timeframes, as described in specific sections below.

The College also has a Consensual Relationship Policy that places limitations on romantic or sexual relationships between faculty, staff, and students, even when it may appear that consent is present. The Consensual Relationship Policy can be found in the Faculty Staff Handbook maintained by the Manager of Human Resources.

Bethany Lutheran College

Sexual Misconduct Policy

IV. DEFINITIONS

A. Definitions of Prohibited Conduct

Sex discrimination occurs when an individual is treated adversely because of that person's sex or gender. Sex discrimination includes discrimination on the basis of sex stereotypes, sex characteristics, and pregnancy or related conditions.

Sexual harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, that is:

- (1) *Quid pro quo harassment*. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- (2) *Hostile environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes, but is not limited to, consideration of the following:
 - The degree to which the conduct affected the Complainant's ability to access the College's education program or activity;
 - The type, frequency, and duration of the conduct;
 - The parties' ages, roles within the College's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - The location of the conduct and the context in which the conduct occurred; and
 - Other sex-based harassment in the recipient's education program or activity.

Multiple instances of the following conduct, or other unwelcome conduct on the basis of sex, may constitute sexual harassment:

- Repeated and unwelcome sexual flirtations, attention, advances, or propositions;
- Requests for sexual favors;
- Punishing or threatening to punish a refusal to comply with a sexual-based 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;
- Verbal abuse of a sexual nature or obscene language;
- Gender-oriented or sexually oriented jokes and comments;
- Non-verbal, verbal or physical harassment directed at an individual or a group of individuals solely on the basis of gender;

Bethany Lutheran College Sexual Misconduct Policy

- Verbal commentary about an individual's body, sexual innuendo, suggestive commentary about a person's clothing and appearance;
- Displaying derogatory or sexually suggestive pictures or other objects in an office, on the exterior of a residence hall door, or on a computer monitor;
- Visual conduct such as leering or making gestures;
- Unwanted kissing;
- Unwelcome touching of a sexual nature such as patting, pinching, or brushing against another's body;
- Gossip about sexual relations;
- Cyber or electronic harassment.

(3) *Sexual assault, domestic violence, dating violence, and stalking*, as those terms are defined below, also constitute sexual harassment under Title IX.

Sexual assault means any actual or attempted sexual contact, including contact with an object, with another person without that person's consent. As used in this Policy, sexual contact includes intentional contact by the accused with the victim's intimate parts (genital area, groin, inner thigh, buttocks, or breasts), whether clothed or unclothed; touching another with any of these body parts, whether clothed or unclothed; coerced touching by the victim of another's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed; or forcing another to touch oneself with or on any of these body parts. Sexual assault includes but is not limited to an offense that meets any of the following definitions:

- Rape: the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or oral contact with the sex organ of another person, without the consent of the victim.
- Fondling: the touching of the intimate parts (including the genital area, groin, inner thigh, buttocks, or breast) of another person for the purpose of sexual gratification, without the consent of the victim.
- Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory rape: sexual intercourse with a person who is under the statutory age of consent; in Minnesota the age of consent is 16.

Sexual assault is a crime under Minnesota law. See [Minnesota Statutes Section 609.341 et seq.](#) for applicable criminal law definitions of criminal sexual conduct.

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For purposes of this Policy, dating violence includes, but is not limited to, sexual or physical abuse, such as physical harm, bodily injury, or criminal assault, or the threat of such abuse.

Bethany Lutheran College Sexual Misconduct Policy

For purposes of this Dating Violence definition, consent will not be a defense to a complaint of physical abuse.

Dating Violence also is prohibited by Minnesota law. Minnesota law prohibiting domestic abuse includes physical harm, bodily injury, or assault committed between persons involved in a significant romantic or sexual relationship. [See Minnesota Statutes Section 518B.01; 609.2242.](#)

Domestic violence means a felony or misdemeanor crime of violence committed

- by a current or former spouse or intimate partner of the person experiencing the violence;
- by a person with whom the person experiencing the violence shares a child in common;
- by a person who is cohabitating with, or has cohabitated with, the person experiencing the violence as a spouse or intimate partner;
- by a person similarly situated to a spouse of the person experiencing the violence under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
- by any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domestic violence is prohibited by Minnesota law. See [Minnesota Statutes Section 518B.01; 609.2242.](#) While not exhaustive, the following are examples of conduct that can constitute domestic violence involving a spouse or intimate partner under Minnesota law: (1) physical harm, bodily injury or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats, criminal sexual conduct, or interference with an emergency call.

For purposes of this Domestic Violence definition, consent will not be a defense to a complaint of physical abuse.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their own or other people's safety, or to suffer substantial emotional distress.

- Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through others, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.
- For purposes of this definition, not all communication about a person will be considered to be directed at that person.
- Reasonable person means a reasonable person in the victim's circumstances.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

Bethany Lutheran College Sexual Misconduct Policy

Stalking behavior may include, but is not limited to:

- Repeated, unwanted and intrusive 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.
- Repeated posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth that would cause a person to feel threatened or intimidated.
- Unreasonably obtaining personal information about the victim.

Stalking is also prohibited by Minnesota law. [See Minnesota Statutes Section 609.749](#). 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.”

Sexual exploitation, a kind of sexual harassment, occurs when an individual takes sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, without consent. Sexual exploitation may include, but is not limited to:

- Intentional and repeated invasion of sexual privacy without consent (e.g., walking into the other person's room or private space without consent);
- Prostituting another person;
- Taking of or distribution of photographs/images, video or audio-recording, or electronically broadcasting (e.g., with a web cam) a sexual activity without consent;
- Intentional removal or attempted removal of clothing covering an individual's intimate parts without consent.
- Intentionally allowing others to view/hear a sexual encounter (such as letting individuals hide in the closet or watch consensual sex) without consent;
- Engaging in voyeurism without consent;
- Ejaculating on another person without consent;
- Viewing or permitting someone else to view another's sexual activity or intimate body parts, in a place where that person would have a reasonable expectation of privacy, without consent;
- Knowingly transmitting an STI (sexually transmitted infections) or HIV to another person without that person's knowledge and consent;
- Exposing one's genitals or breasts in non-consensual circumstances;

Bethany Lutheran College Sexual Misconduct Policy

- Inducing another person to expose his/her genitals or breasts in non-consensual circumstances;
- Distributing or displaying pornography to another in non-consensual or unwelcomed circumstances.

Sexual misconduct means the conduct covered by this term in the Minnesota Campus Sexual Misconduct Policy Law, including sexual violence, intimate partner violence, domestic violence, sexual assault, sexual harassment, nonconsensual distribution of sexual images, sexual extortion, nonconsensual dissemination of a deepfake depicting intimate parts or sexual acts, sex trafficking, or stalking.

Retaliation means any act of intimidation, threat, coercion, or discrimination or any other adverse action or threat thereof against any individual for the purpose of interfering with any right or privilege secured by Title IX, its regulations, or this Policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy. Encouraging or assisting others to engage in retaliation or to interfere with the process are also considered retaliation and violate this Policy.

While the College does not prohibit the parties from discussing the allegations in a complaint, acts that could constitute retaliation may include, but are not limited to, acts or comments that are intended to discourage a person from engaging in activity protected under this Policy or that would discourage a reasonable person from engaging in activity protected under this Policy; acts or comments that are intended to influence whether someone participates in the complaint resolution process; adverse changes in employment status or opportunities; adverse academic action; and adverse changes to academic, educational, and extra-curricular opportunities. Retaliation may be in person, through social media, email, text, and other forms of communication, representatives, or any other person. Retaliation may be present against a person even when the person's allegations of sex discrimination, sexual harassment, and sexual misconduct are unsubstantiated.

B. Definitions of Process Participants

Advisor means a person selected by a Complainant or Respondent to assist that party during a complaint Resolution Process. An advisor may accompany a party to all meetings during a complaint Resolution Process or Informal Resolution Process and may assist a party with preparing statements and other materials during the process.

Complainant means a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sexual harassment, or sexual misconduct, or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sexual harassment, or sexual misconduct and who was participating in or attempting to participate in the College's Education Program or Activity when the alleged conduct occurred. Where a Process involves more than one Complainant, references in this Policy to the singular "Complainant" include the plural, as applicable.

Bethany Lutheran College Sexual Misconduct Policy

Decisionmaker. The decisionmaker is the individual designated to determine in a Complaint Resolution Process whether the Respondent is responsible for a violation of this Policy.

Employee, for the purposes of this Policy, means all non-student employees of the College, including faculty, staff, adjuncts, and administrators.

Party means a Complainant or Respondent. Where a Process involves more than one Complainant and/or more than one Respondent, references in this Policy to the singular “party” include the plural, as applicable.

Respondent means a person who is alleged to have violated the College’s prohibition on sex discrimination, sexual harassment, or sexual misconduct. Where a Process involves more than one Respondent, references in this Policy to the singular “Respondent” include the plural, as applicable.

Investigator means the person appointed by the Title IX Coordinator to investigate a complaint of sex discrimination, sexual harassment, or sexual misconduct. The investigator may be an employee of the College or may be a person external to the College retained specifically for this purpose.

Third party, for the purposes of this Policy, includes certain third-party affiliates, including volunteers, vendors, visitors, and independent contractors.

Student, for the purposes of this Policy, means all students at the College, except for full-time employees of the College who are also taking classes at the College (for the purposes of this Policy, those individuals are considered employees). The term “student” otherwise includes all individuals taking classes at the College, including all degree and non-degree students.

Title IX Coordinator is the designated staff member of the College with primary responsibility for coordinating Title IX compliance efforts, and who generally oversees the complaint resolution process, documents the findings and decisions, and maintains official records.

C. Other Definitions Related to Title IX Resolution Processes

Coercion or force includes conduct, intimidation, and expressed or implied threats of physical or emotional harm that would reasonably place an individual in fear of immediate or future harm and that are used in order to persuade or compel someone to engage in sexual contact. Any sexual contact occurring after a person has engaged in coercion or force will be presumed non-consensual, even if the particular sexual contact that occurs is different from the form of sexual contact in which the individual was attempting to engage, and even if the other individual uses words or actions that would otherwise appear to convey consent.

Complaint means an oral or written request to the College that objectively can be understood as a request for the College to investigate and make a determination about alleged discrimination under Title IX or its regulations.

Bethany Lutheran College Sexual Misconduct Policy

Consent is words or overt actions by a person in advance clearly communicating a freely given present agreement to participate in a particular sexual contact or activity. Words or overt actions clearly communicate consent when a reasonable person in the circumstances would believe those words or actions indicate a willingness to participate in a mutually agreed-upon sexual contact or activity. Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining consent. It is the responsibility of the person initiating the specific sexual contact or activity to obtain consent for that contact or activity.

The definition of consent is subject to the following:

- Consent is active, not passive. Silence or the absence of resistance or saying “no,” in and of themselves, cannot be interpreted as consent.
- Consent to any one form of sexual contact or activity does not, by itself, constitute consent to any other forms of sexual contact or activity.
- Previous relationships or prior consent does not, by itself, constitute consent to future sexual contact or activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may be factors in determining whether there was consent.
- Whether an individual actively and willingly participates in conduct may be a factor in determining whether there was consent.
- Consent can be withdrawn at any time. When consent is withdrawn, the sexual contact or activity for which consent was initially provided must stop.
- The College places limitations on romantic or sexual relationships between faculty, staff, and students, even when it may appear that consent is present.
- Consent cannot be procured, expressly or implicitly, by use of physical force or the threat thereof, such as hitting, punching, slapping, kicking, restraining, choking, or brandishing or using any weapon, or coercion, as that term is defined in this Policy.
- An individual known to be or who should be known to be incapacitated, as that term is defined in this Policy, cannot consent to sexual contact or activity initiated by another individual.
- Use of alcohol or other drugs will never function to excuse behavior that violates this Policy.
- A person who is not of legal age (16 in Minnesota) cannot consent to sexual contact or activity.

Disciplinary sanctions are consequences imposed on a Respondent following a determination under the College’s Complaint Resolution Process that the Respondent violated the College’s prohibition on sex discrimination.

Education program or activity includes all of the operations of the College, including (1) locations on campus or otherwise owned or controlled by the College, such as residence halls and learning spaces, (2) locations, events, or circumstances over which the College exercised substantial control over both the Respondent and the context in which the alleged sex

Bethany Lutheran College Sexual Misconduct Policy

discrimination, sexual harassment, and sexual misconduct occurred, such as College athletic events and other College-sponsored off-campus activities, and (3) any building owned or controlled by a student organization that is officially recognized by the College. Whether alleged conduct occurred in the College's education program or activity is a fact specific analysis.

Incapacitation means the physical and/or mental inability to understand the fact, nature, or extent of the sexual situation. Incapacitation may result from mental or physical disability, sleep, unconsciousness, involuntary physical restraint, or from the influence of drugs or alcohol. With respect to incapacitation due to the influence of drugs or alcohol, incapacitation requires more than being under the influence of drugs or alcohol; a person is not incapacitated just because they have been drinking or using drugs. Where drugs and/or alcohol are involved, incapacitation is determined based on the facts and circumstances of the particular situation looking at whether the individual was able to understand the fact, nature, or extent of the sexual situation, whether the individual was able to communicate decisions regarding consent, non-consent, or the withdrawal of consent, and whether such condition was known or reasonably known to the Respondent or a reasonable sober person in Respondent's position. Use of drugs or alcohol by the Respondent is not a defense against allegations of sex discrimination, sexual harassment, and sexual misconduct.

Informal Resolution means any voluntary, structured interaction between a Complainant and Respondent intended to resolve allegations of sex discrimination, sexual harassment, or sexual misconduct without engaging in a Complaint Resolution Process. The Informal Resolution Process is intended to be flexible while also providing for a full range of possible outcomes and may happen in the form of mediation, shuttle diplomacy, or other means devised by and agreed to by the parties. Typically, the Title IX Coordinator facilitates Informal Resolution, but the Title IX Coordinator may designate a trained, external facilitator. Informal Resolution may be used to address any form of sex discrimination, sexual harassment, or sexual misconduct. The College reserves the right to determine whether Informal Resolution is appropriate for each specific case.

On the basis of sex means conduct that is sexual in nature or is referencing or aimed at a particular sex.

Preponderance of evidence is the standard of evidence used to determine responsibility under this Policy. Preponderance of Evidence means "more likely than not" that the College's Title IX policy was violated.

Process refers to all activities related to a non-criminal resolution of a College disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. References to Process may include the Complaint Resolution Process or the Informal Resolution Process, depending on the context.

Reasonable person means a reasonable person in the shoes of the Complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

Bethany Lutheran College Sexual Misconduct Policy

Relevant means related to the allegations of sex discrimination under investigation as part of these Complaint Resolution Processes. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

Remedies means measures provided, as appropriate, to a Complainant or any other person the College identifies as having had their equal access to the College's Education Program or Activity limited or denied by sex discrimination, sexual harassment, or sexual misconduct. These measures are provided to restore or preserve that person's access to the College's Education Program or Activity after the College determines that sex discrimination, harassment, or misconduct occurred.

Report is an account of sex discrimination, sexual harassment, or sexual misconduct that has allegedly occurred that has been provided to the College by the Complainant, a third party, or an anonymous source.

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after filing a complaint or where no complaint has been filed. Supportive measures are designed to restore or preserve equal access to the College's educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment or deter sexual harassment.

Unwelcome conduct means conduct that the individual did not request or invite and regarded as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that he or she welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct does not necessarily mean that person welcomes other conduct. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident.

Bethany Lutheran College

Sexual Misconduct Policy

V. RESPONSIBILITIES OF TITLE IX COORDINATOR AND TITLE IX TEAM

The College's Title IX coordinator is the designated representative with primary responsibility for coordinating the College's efforts to end sex discrimination, sexual harassment, and sexual misconduct, prevent its recurrence, and address its effects. The Title IX Coordinator oversees and monitors the College's overall compliance with Title IX-related policies and developments; the implementation and oversight of complaint resolution processes, including review, investigation, and adjudication of complaints of sex discrimination, sexual harassment, and sexual misconduct (as outlined in Complaint Resolution Processes below); the provision of educational materials and training for the campus community; and monitoring all other aspects of the College's Title IX compliance. These responsibilities include, but are not limited to:

- Ensuring College policies and procedures and relevant state and federal laws are followed;
- Informing any individual, including a Complainant, a Respondent, or another individual, about the procedural options and processes used by the College, and about resources available at the College and in the community;
- Training and assisting any College employees regarding how to respond appropriately to a report of sex discrimination, sexual harassment, and sexual misconduct;
- Monitoring full compliance with all procedural requirements and time frames outlined in this Policy;
- Evaluating allegations of bias or conflict of interest relating to this Policy;
- Determining whether grounds for appeal under this Policy have been properly stated;
- Ensuring that appropriate training, prevention and education efforts, and periodic reviews of the College's climate and culture take place;
- Coordinating the College's efforts to identify and address any patterns or systemic problems revealed by reports and complaints;
- Assisting in answering questions related to this Policy;
- Recordkeeping of all incidents reported to the Title IX Coordinator; and
- Complying with written notice requirements of the Violence Against Women Act.

The College's Title IX Team includes the Title IX Coordinator, as well as appointed staff and faculty designees who may also be called upon to investigate or adjudicate complaints, review appeals, and/or facilitate informal resolutions or Complaint Resolution Processes. These team members include the Manager of Human Resources, the Vice President of Student Affairs, Investigators, Adjudicators, and Legal Counsel to the Cabinet. See Appendix B, Resources, at the end of this document for contact information.

The Title IX Coordinator may appoint a designee to fulfill the functions of the Coordinator under this Policy. When this Policy refers to actions of the Title IX Coordinator, these actions may be fulfilled by the Title IX Coordinator or the Title IX Coordinator's designee. The College also reserves the right to outsource actions under this Policy to third parties, including actions of the Title IX Coordinator, investigator(s), adjudicator(s), and appeal officer(s).

Bethany Lutheran College Sexual Misconduct Policy

VI. CONFIDENTIALITY

The College encourages individuals who have experienced sex discrimination, sexual harassment, or sexual misconduct to talk to someone about what happened. Different people on campus have different abilities to maintain confidentiality and privacy when allegations are reported to them. In making the decision about whom to contact for support and information, it is important to understand that most College employees are not confidential resources, and are obligated to report to the College any information they receive about sex discrimination, sexual harassment, or sexual misconduct. Employees and students are encouraged to ask about a person's ability to maintain confidentiality and privacy before offering any information about alleged incidents.

A. Confidential Communications and Resources

The College recognizes that some individuals may wish to keep their concerns confidential. Confidential communications are those communications which cannot be disclosed to another person, without the reporter's consent, except under very limited circumstances such as allegations involving the physical abuse, sexual abuse, or neglect of a child (under the age of 18) or vulnerable adult or an imminent threat to the life of any person. Individuals who desire the details of sex discrimination, sexual harassment, or sexual misconduct to be kept confidential should speak with a medical professional, professional counselor, minister or other pastoral counselor, or trained victims' advocate. The College's on campus confidential resources are the campus nurse and faculty or staff serving as pastoral counselors that are formally trained and ordained clergy, Called by the College, and granted certain pastoral privileges.

On campus:

Don Moldstad*
Director of Spiritual Life/Chaplain
111 Trinity Chapel
donm@blc.edu
Office: (507) 344-7312
Cell: (507) 387-5456

Doyle Holbird*
Professor, Biology
208 Meyer Hall
dholbird@blc.edu
Office: (507) 344-7753

*These confidential resources serve in multiple roles on campus. If you are seeking assistance from one of the confidential resources in their role as a confidential resource, you should contact them through the office contact information listed above and should make clear prior to disclosing any information that you are seeking their assistance as a confidential resource. Students should know that professors cannot serve as a confidential resource for students who they are currently teaching, and if they receive information in the course of their duties other than in a spiritual capacity, they may be required to report it.

Personal Counseling: The College maintains an on campus Personal Counseling Center staffed by CFS – Christian Family Solutions counselors. students and employees can request an appointment with a CFS counselor by calling 1-800-438-1772 or on-line at <https://appointment.christianfamilysolutions.org/request-appointment>.

Bethany Lutheran College Sexual Misconduct Policy

Student Health Services: The on-campus Express Care Clinic operated by Mayo Clinic Health System is staffed Monday –Friday from 7:45 AM – 9:45 AM when classes are in session. Students may walk-in for a no-charge appointment. The Express Care Clinic is located at Luther Hall 105.

Off campus:

- CADA, an off campus victim service agency
(800) 477-0466 or (507) 625-3966
24 hours a day/7 days a week

- *RAINN (Rape, Assault, and Incest National Network)*
<https://www.rainn.org/>
(800) 656-HOPE
24-hour hotline; free and confidential

A person who speaks to a confidential resource should understand that if the person does not report the concern to the College, the College will be unable to provide certain supportive/interim measures, conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential resource may later decide to file a complaint with the College or report the incident to local law enforcement.

B. Non-Confidential Communications

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 have a responsibility to report the matter to the Title IX Coordinator. College employees who are not confidential resources will strive to remind an individual of their reporting obligations before the individual has disclosed a situation that requires reporting to the Title IX Coordinator.

Although most College employees cannot promise confidentiality, the College is committed to protecting the privacy of individuals involved in a report of sex discrimination, sexual harassment, and sexual misconduct. Allegations of policy violations will be considered private and will only be shared with other College employees on a need-to-know basis, as permitted by law. The College will keep confidential the identity of any individual who has made a report or filed a complaint alleging a violation of this Policy, as well as any Complainant, Respondent, and witness, except as permitted by law or to carry out the complaint resolution process pursuant to this Policy. Allegations of sex discrimination, sexual harassment, and sexual misconduct will not be shared with law enforcement without the consent of the individual who has alleged the sexual misconduct, unless the allegations relate to physical abuse, sexual abuse, or neglect of a child under the age of 18 (see Section VIII (C), Mandatory Reporting Concerning Minors, below, for more information) or unless compelled to do so pursuant to a subpoena or court order.

Bethany Lutheran College Sexual Misconduct Policy

In addition, although the College will strive to protect the privacy of all individuals involved to the extent possible consistent with the College's legal obligations, the College may be required to share information with individuals or organizations outside the College under reporting or other obligations under federal and state law, such as reporting of Clery Act crime statistics and mandatory reporting of child abuse and neglect. In addition, if there is a criminal investigation or civil lawsuit related to the alleged misconduct, the College may be subject to a subpoena or court order requiring the College to disclose information to law enforcement and/or the parties to a lawsuit. In these cases, personally identifying information will not be reported to the extent allowed by law and, if reported, affected students will be notified consistent with the College's responsibilities under FERPA, as allowed by law.

C. Requesting Confidentiality or Non-Action

When the College receives a report of sex discrimination, sexual harassment, and sexual misconduct, it has a legal obligation to respond in a timely and appropriate manner. Making a report to the College does not require an individual to begin or participate in the complaint resolution process or to report to local law enforcement. Individuals may request confidentiality or that no action be taken against the Respondent at the time they report an alleged incident. However, based on the information gathered, the College may determine that it has a responsibility to move forward with a Complaint Resolution Process, even without the participation of the Complainant. The Title IX Coordinator will evaluate the request, as described in Sections XII (A) and XIII (A) of this Policy.

The College will take all reasonable steps to respond to the complaint consistent with a Complainant's request for confidentiality or request not to pursue an investigation. But the scope of the College's response may be impacted or limited, depending on the nature of the Complainant's request. In some circumstances, the College may be unable to investigate a particular incident or pursue disciplinary action against a Respondent and also maintain confidentiality.

In instances where the College moves forward with a Complaint Resolution Process without the participation of the Complainant, the Complainant will have the same rights as provided to a Complainant under this Policy, even if the Complainant did not sign the complaint.

VII. IMMEDIATE AND ONGOING ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT

The College will support any person adversely impacted by sex discrimination, sexual harassment, and sexual misconduct. Both the College and the Mankato community provide a variety of resources to assist and support individuals who have experienced sex discrimination, sexual harassment, and sexual misconduct or are affected by allegations of 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, fair and respectful on campus and off campus counseling, health, mental health,

Bethany Lutheran College Sexual Misconduct Policy

victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and support services; making changes to academic, living, transportation, and/or working arrangements; assistance in filing a criminal complaint; and providing information about restraining orders and other available protections and services. Additional information about ongoing assistance is in Section IX (A) (supportive measures) below. To receive information about obtaining support services, individuals should contact the Title IX Coordinator or a confidential resource.

A complete description of the College's and community's resources, both confidential and non-confidential, and additional information regarding what to do if you experience sex discrimination, sexual harassment, and sexual misconduct is provided in Appendix B at the end of this Policy and on the College's website. Individuals who believe they have been subjected to any form of sex discrimination, sexual harassment, or sexual misconduct are encouraged to seek support from these resources.

VIII. REPORTING SEXUAL MISCONDUCT

Individuals have several options for reporting allegations of sex discrimination, sexual harassment, and sexual misconduct. Reports may be submitted in person, via phone, online, mail, or via email. Reports may be made at any time, including non-business hours by phone, email, mail, or the College's website.

A. Reporting to the College

The College encourages anyone who has experienced or knows of sex discrimination, sexual harassment, or sexual misconduct to report the incident to the College by contacting the following:

- Ted Manthe, V.P. Student Affairs
Title IX Coordinator
Bethany Lutheran College
700 Luther Drive
Mankato, MN 56001
Phone: (504) 344-7745
Email: titleix@blc.edu
- Campus Security
Phone: (507) 344-7888
Email: securitydirector@blc.edu
- Joshua Pederson, Manager of Human Resources
Phone: (507) 344-7840
email: joshua.pederson@blc.edu
- Renee Tatge, Registrar
Phone: (507) 344-7310
email: renee.tatge@blc.edu

Bethany Lutheran College Sexual Misconduct Policy

- Online Reporting Form (may choose to report anonymously)
<https://forms.blc.edu/title-ix-reporting/>

Reports to the College should include as much information as possible, including the names of the Complainant, the Respondent, and any other involved individuals, and the date, time, place, and circumstances of the incidents, to enable the College to respond appropriately.

Upon receiving a report of sex discrimination, sexual harassment, and sexual misconduct, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures and to explain the process of filing a complaint. When a student or employee reports to the College that they have been experiences sexual assault, dating violence, domestic violence, or stalking, whether the offense occurred on or off campus, the College will provide the student or employee with a written explanation of the student's or employee's rights and options, along with the procedures the victims should follow.

If an individual has made a report to a College employee who is not a confidential resource and has not yet heard from the Title IX Coordinator, they can report directly to the Title IX Coordinator.

The College recognizes that the decision to report sexual violence to authorities, including the College or the police, is the right of the Complainant. A Complainant has the right to report to the College, the police, neither, or both. If the Complainant chooses to report to the police, the College will assist the Complainant in that process.

B. Employee Reporting Obligations

To enable the College to respond effectively and to prevent future instances of sex discrimination, sexual harassment, or sexual misconduct, all College employees who are not confidential resources who obtain or receive information regarding a possible violation of this Policy must report that information to the Title IX Coordinator. Student employees who receive such information in the course of their work position or duties also must report the information to the Title IX Coordinator. Such report should be made as soon as possible and should include all relevant details needed to assess the situation. This includes, to the extent known, the names of the Complainant, the Respondent, and other individuals involved in the incident, as well as relevant facts, including the date, time, and location.

Employees who receive such reports should not attempt to “investigate” the allegation or require the reporting individual to provide all of the details surrounding the alleged sex discrimination, sexual harassment, or sexual misconduct. To the extent the reporting individual provides detail, that information should be provided to the Title IX Coordinator. Upon receiving a report of alleged or possible sex discrimination, sexual harassment, and sexual misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken consistent with the complaint resolution process and this Policy.

Bethany Lutheran College Sexual Misconduct Policy

College employees who are not confidential resources and receive a report of sex discrimination, sexual harassment, and sexual misconduct should bring the report directly to the Title IX Coordinator and should not share information about the report with any other individual. If the employee is uncertain whether the information should be reported to the Title IX Coordinator, the employee should seek guidance from the Title IX Coordinator before providing the Title IX Coordinator with any identifiable information regarding the report. Failure of a College employee who is not a confidential resource to report allegations of sex discrimination, sexual harassment, or sexual misconduct to the Title IX Coordinator may result in disciplinary action.

Students who are not also employees of the College are not required to report information about conduct that reasonably may constitute sex discrimination, sexual harassment, or sexual misconduct or provide information about how to make a complaint. But students are encouraged to report that information to the Title IX Coordinator or to provide the Title IX Coordinator's contact information to the individual reporting the conduct.

An employee or student who has personally been subject to conduct that reasonably may constitute sex discrimination, sexual harassment, or sexual misconduct does not have an obligation to report that information.

C. Mandatory Reporting Concerning Minors

Any College employee who becomes aware of the abuse (physical or sexual) or neglect of a child under the age of 18 on campus or in connection with any College event, program, or activity must report it immediately to Campus Security and the Title IX Coordinator (Note: This may include PSEO or on-line students who are under the age of 18). In addition, as a mandatory reporter under Minnesota law, the reporting employee must also immediately report the abuse or neglect to the local welfare agency, agency responsible for assessing or investigating the report, police department, or county sheriff.

D. Online and Anonymous Reporting

Reports of sex discrimination, sexual harassment, and sexual misconduct may be made via the [online reporting form](https://forms.blc.edu/title-ix-reporting/) found at (<https://forms.blc.edu/title-ix-reporting/>). Individuals who file a report online can choose to do so anonymously. The individual making the report is encouraged to provide as much detailed information as possible to allow the College to investigate the report and respond as appropriate. The College may be limited in its ability to investigate an anonymous report unless sufficient information is furnished to enable the College to conduct a meaningful investigation.

E. Reporting to Law Enforcement

Some types of sex discrimination, sexual harassment, and sexual misconduct prohibited by this Policy, such as sexual assault, are also crimes. Individuals who believe they may have been subjected to criminal sexual misconduct are strongly encouraged to notify local law enforcement authorities.

Bethany Lutheran College Sexual Misconduct Policy

Individuals who would like to report any type of sexual misconduct to law enforcement should contact the Mankato Police Department by calling 911 or (507) 387-8780. This phone number is a call directly to the Police Department. Campus authorities will assist an individual in notifying law enforcement authorities and will also accompany the Complainant to the police station upon request. If you would like assistance in notifying law enforcement, please contact the Title IX Coordinator or Campus Security.

Individuals may file a criminal complaint and a Title IX complaint simultaneously. Reporting to law enforcement is not necessary for the College to proceed with a complaint resolution process.

Minnesota law provides individuals who report crimes to law enforcement with certain rights. For further information, consult Crime Victim Rights, a publication of the Minnesota Department of Public Safety, or [Minnesota Statutes Chapter 611A](#). See also the Minnesota Crime Victim's Bill of Rights in Appendix A.

F. Amnesty

The College encourages the reporting of incidents of sex discrimination, sexual harassment, and sexual misconduct. At times, Complainants or witnesses may be hesitant to report to College officials or to participate in a sex discrimination, sexual harassment, and sexual misconduct complaint resolution process because they fear that they themselves may be accused of Policy violations, such as intoxication due to alcohol consumption or a violation of the Sexuality Section of the Standards of Conduct, at the time of the incident. It is in the best interests of the Bethany community that incidents are reported to College officials. Therefore, the College will not discipline individuals who make a good faith report to the College or individuals who participate in a complaint resolution process for any violation of the College's drug and alcohol policies or sexuality policies in which they might have engaged in connection with the reported incident, except as outlined in this Section.

The College, however, reserves the right to require individuals to participate in training or educational programming designed to reduce risk and promote health and wellbeing. The participation in such training or educational programming will not be reflected on a community member's official records. In addition, amnesty may not be extended in instances where any other individual is harmed by the conduct constituting a violation of another College policy, where an employee who engaged in a violation of another College policy holds a leadership role on campus, including a leadership role over students or employees, or where an employee is engaged in a violation of another College policy with a student. In those cases, the College may still pursue disciplinary action for the alleged violation of other College policies.

G. Obligation to Act in Good Faith

Reports and complaints of alleged sex discrimination, sexual harassment, and sexual misconduct should be made only in good faith. Reports and complaints that are not made in good faith may be a form of retaliation under this Policy and/or may violate other College policies.

Bethany Lutheran College Sexual Misconduct Policy

H. Access to Report

A person who reports an incident to the College will be provided access to their Report upon request, consistent with state and federal laws governing privacy of and access to education records. A request for access to a report should be made to the Title IX Coordinator.

IX. INITIAL RESPONSE TO A REPORT OF SEX DISCRIMINATION, SEXUAL HARASSMENT, OR SEXUAL MISCONDUCT UNDER THIS POLICY

A. Initial Contact with Title IX Coordinator

Upon receipt of a report of sex discrimination, sexual harassment, or sexual misconduct, the Title IX Coordinator will promptly contact the Complainant to offer an initial meeting. As part of this initial meeting with the Complainant, the Title IX Coordinator will

- Assess the nature and circumstances of the allegation;
- Address immediate physical safety and emotional well-being of the Complainant and the campus, in consultation with appropriate campus officials;
- Notify the Complainant of the right to contact law enforcement and seek medical treatment;
- Notify the Complainant of the importance of preserving evidence;
- Identify resources available to the Complainant on- and off-campus;
- Inform the Complainant of the right to have an advisor of choice, as applicable under this Policy; and
- Explain the College's Policy prohibiting retaliation.

The Title IX Coordinator will also discuss the availability of supportive measures and explain the options for addressing a report. Generally, options include but are not limited to

- Taking no action;
- Arranging supportive measures to help the Complainant navigate the College environment and continue to participate in the College's education program and activities;
- Requesting that the Title IX Coordinator have a conversation with the Respondent about the conduct;
- Engaging in an Informal Resolution Process with the Respondent;
- Initiating a complaint Resolution Process under this Policy that will result in a determination of whether the Respondent is responsible for sex discrimination, sexual harassment, or sexual misconduct.

The Complainant has the right to decide whether to take any action to address the alleged conduct, whether to seek supportive measures, and whether to be involved in a process addressing the conduct. Under some circumstances, described in Section XII and XIII, below, the Title IX Coordinator may determine that the College will initiate a Complaint Resolution Process to address the discrimination or harassment even if the Complainant decides not to participate in the process.

Bethany Lutheran College Sexual Misconduct Policy

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

If appropriate, the Title IX Coordinator will meet with the Respondent to inform them of the report and to discuss the availability of supportive measures during any ensuing process.

When responding to a report of sex discrimination, sexual harassment, or sexual misconduct, and throughout any Complaint Resolution Process, the Title IX Coordinator will treat the Complainant and Respondent equitably.

Supportive measures are available to a Complainant at any time after a report of sex discrimination, sexual harassment, or sexual misconduct, with or without the filing of a complaint. If an Informal Resolution Process or Complaint Resolution Process has been initiated, supportive measures are also available to a Respondent.

Supportive measures may include, but are not limited to:

- Extensions of deadlines or other course-related adjustments,
- Modifications of work or class schedules
- Campus security escorts
- Mutual restrictions on contact between Complainants and Respondents
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of campus
- Access to on-campus counseling services
- Other similar measures

Supportive measures will be designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party. The Title IX Coordinator will consider the Complainant's wishes with respect to supportive measures and will coordinate the implementation of supportive measures.

The College may not impose any disciplinary sanctions or other actions that are not supportive measures against a Respondent absent a determination of responsibility for a policy violation through a Complaint Resolution Process, as described in this Policy.

The College will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining confidentiality will not impair the College's ability to provide the supportive measures.

When applicable, the College will also notify the Complainant of their rights and the College's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court (see Resources in Appendix B below).

Bethany Lutheran College Sexual Misconduct Policy

B. Opportunity to Challenge Supportive Measures

Both the Complainant and the Respondent may seek modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures applicable to them. The Title IX Coordinator will receive requests to seek modification or reversal of supportive measures and will designate an impartial employee to decide whether to grant the modification or reversal request. The impartial employee will not be the employee who made the challenged decision and will be an employee with the authority to modify or reverse the decision. The decision will be modified or reversed if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measure provided in this Policy.

Complainants and Respondents may seek additional modification or termination of supportive measures applicable to them if circumstances change materially.

C. Emergency Removal and Administrative Leave

Regardless of whether a complaint is filed, the College retains the right to remove a Respondent from the College's education program or activity on an emergency basis. The College will perform an individualized safety and risk analysis, evaluating whether an imminent and serious threat to the physical health or safety of a Complainant, any students, employees, or other individual arising from the allegations of sex discrimination, sexual harassment, or sexual misconduct exists that justifies removal.

If the College determines that removing a Respondent is justified, it will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal. The Title IX Coordinator should be notified of any challenge to the removal decision. The final decision regarding an emergency removal decision will be made as soon as practicable after the Title IX Coordinator is notified of the challenge.

The emergency removal determination, including the specific parameters of the removal, will be made by the Title IX Coordinator. Any challenge to the emergency removal determination should be submitted to the Director of Human Resources, who will identify another senior-level administrator who will make the final determination on the emergency removal.

If the Respondent is a non-student employee, in non-emergency situations, the College may place the Respondent on administrative leave after a complaint is filed and during the pendency of a resolution process. In this case, the administrative leave determination, including the specific parameters of the administrative leave, will be made by a Human Resources staff member or Senior Level Administrator not otherwise involved in the case.

Bethany Lutheran College Sexual Misconduct Policy

D. Protective Orders, Criminal No-Contact Orders, and College No-Contact Directives

Individuals who would like to avoid contact with another individual have several options available to them, including seeking a harassment restraining order or protective order from a civil court, or requesting a no-contact order from the College.

Harassment restraining orders and orders for protection are legal orders issued by a state court which forbid someone from harassing and/or making contact with another. A harassment restraining order is a court order issued against an alleged harasser, regardless of the relationship between the alleged harasser and the alleged victim, which orders the harasser to stop harassing the victim and/or to have no contact with the victim. An order for protection is a civil court order that protects one family or household member from domestic abuse by another family or household member.

The College does not issue harassment restraining orders or orders for protection, but one can be obtained through making an application to the Blue Earth County District Court. Petition forms to apply for harassment restraining orders or to seek an order for protection are available at the Blue Earth County Justice Center, Court Administration Office, at 401 Carver Rd, Mankato, MN 56001. Forms are also available [online from the Minnesota Judicial Branch website](#). Forms must be submitted to the Court Administrator at the Blue Earth County Justice Center during business hours. Individuals seeking a harassment restraining order or an order for protection may obtain assistance from the Blue Earth County Justice Center, Court Administration Offices, at 401 Carver Rd, Mankato, MN 56001. Individuals seeking a harassment restraining order or an order for protection may seek assistance over the phone with the MN Courts Self-Help Center at (651) 259-3888. For more information and assistance, individuals should contact the Title IX Coordinator at (504) 344-7745 or titleix@blc.edu.

A no-contact directive is a College-issued directive that prohibits one or both parties from communication or contact with another. No-contact directives may be mutual or one-sided. Generally, no-contact directives issued prior to the conclusion of the complaint resolution process will be mutual and serve as notice to both parties that they must not have verbal, electronic, written, or third-party communication with one another. To request a no-contact directive from the College, individuals should contact the Title IX Coordinator, (507) 344-7745, Office: 236 Old Main, titleix@blc.edu. A College no-contact directive may be enforced by contacting Campus Security or the Title IX Coordinator.

The College honors requests for information about available options for orders for protection, restraining orders, and no-contact orders and has a responsibility to comply with and enforce such orders. To request additional information about available options for orders for protection, restraining orders, and no-contact orders, contact the Title IX Coordinator. An order of protection and/or harassment restraining order can be enforced by contacting local law enforcement.

Bethany Lutheran College Sexual Misconduct Policy

X. INFORMAL RESOLUTION PROCESS

A. Overview

At any time prior to reaching a determination regarding responsibility for sex discrimination, sexual harassment, or sexual misconduct through the Complaint Resolution Processes described in Sections XII and XIII, below, the parties may choose to enter into an Informal Resolution Process that does not involve the full investigation and adjudication described in those Processes. The College encourages the use of the Informal Resolution Process, recognizing that parties' participation in the Informal Resolution Process is voluntary and the process will only be implemented with the full written consent of all parties, in accordance with the requirements of this Section.

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

When a report or complaint of sex discrimination, sexual harassment, or sexual misconduct is resolved through an Informal Resolution Process, the Title IX Coordinator will also take steps, as appropriate, to ensure that the sex discrimination, sexual harassment, or sexual misconduct does not continue or recur.

The Informal Resolution Process may be used to address complaints of retaliation related to sex discrimination, sexual harassment, and sexual misconduct.

B. Consent by the Parties

All parties must provide voluntary, written consent to participate in the Informal Resolution Process. The College cannot require the parties to participate in an Informal Resolution of a complaint of sexual harassment.

The College may not require a party to waive the right to investigation and adjudication of a complaint, as outlined in the Complaint Resolution Process, as a condition of enrollment, continuing enrollment, employment, continuing employment, or provision of any other right.

C. Timeframe for the Informal Resolution Process

Generally, an Informal Resolution Process will be completed within 30 calendar days from receipt of the request for Informal Resolution. This timeline may be extended if necessary, including a temporary delay or the limited extension of time for good cause.

The parties will simultaneously be notified in writing of any extension of the timeframe and the reasons for such extension.

Bethany Lutheran College Sexual Misconduct Policy

D. Notice to the Parties

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

- The allegations;
- The requirements of the Informal Resolution Process;
- The right of any party to withdraw from the Informal Resolution Process at any time prior to agreeing to a resolution and to resume the Complaint Resolution Process;
- That the parties' agreement to a resolution at the conclusion of the Informal Resolution Process precludes the parties from initiating or resuming Complaint Resolution Process arising from the same allegations;
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notice that an Informal Resolution agreement is binding only on the parties;
- What information the College will maintain from the Informal Resolution Process and whether and how the College could disclose such information for use in the Title IX Complaint Resolution Process if such a Process is initiated or resumed.

E. Informal Resolution Process Facilitator

The facilitator for the Informal Resolution Process will be the Title IX Coordinator or a person designated by the Title IX Coordinator. A facilitator designated by the Title IX Coordinator may be an employee of the College or may be an external consultant. The facilitator will not be the same person as the investigator or decisionmaker in the College's Complaint Resolution Process.

The facilitator for an Informal Resolution Process will not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The facilitator will be trained consistent with the Title IX regulations.

F. Description of Process

The facilitator, in consultation with the Title IX Coordinator, will work with the parties to determine a structure for the Informal Resolution Process that all parties agree to. Working with the facilitator, the parties generally have latitude to determine the structure of the process, which may include mediation or other alternative dispute resolution procedures. The parties are not required to meet face-to-face during the process.

The parties have the right to withdraw from an Informal Resolution Process at any time and resume the Complaint Resolution Process. Once the parties have arrived at an agreement and finalized an agreement, the process is concluded, and the parties are precluded from entering a complaint Resolution Process arising from the same allegations.

Bethany Lutheran College Sexual Misconduct Policy

G. Potential Terms and Outcomes of an Informal Resolution Process

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

- Restrictions on contact between the parties;
- Restrictions on the Respondent's participation in one or more College activities or programs;
- Priority in class registration, to ensure parties are not registered for the same classes;
- Restrictions on physical presence in certain areas;
- Required attendance at educational programs
- Required assessment and/or counseling
- Apology and recognition of harm.

At the conclusion of an Informal Resolution Process, the parties will be asked to sign an Informal Resolution outcome agreement. If all parties to the complaint agree in writing to the terms and conditions of the Informal Resolution within 5 business days, the case will be resolved without additional Process, including a Complaint Resolution Process, under this Policy. If all parties to the complaint do not agree in writing to the terms and conditions of the Informal Resolution within 5 business days, the complaint will move to the Complaint Resolution Process for resolution.

The College will simultaneously provide the parties with the final, signed written summary of the outcome.

The Title IX Coordinator, or their designee, is responsible for ensuring that the terms of an Informal Resolution agreement are adhered to.

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

Records about Informal Resolution Processes will be maintained by the Title IX Coordinator, consistent with this Policy's recordkeeping provision, and will only be shared with College employees who have a need to know. Records from an Informal Resolution Process, including statements made by the parties during the process, will not be shared in a later Complaint Resolution Process.

Bethany Lutheran College Sexual Misconduct Policy

XI. GENERAL PRINCIPLES GOVERNING COMPLAINT RESOLUTION PROCESSES

A. Overview of Complaint Resolution Processes

The College has adopted Complaint Resolution Processes that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its Education Program or Activity, or brought by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX Regulations.

The Complaint Resolution Process to Address Sex Discrimination Complaints and Complaints of Sexual Harassment Not Involving Students (PROCESS A), set out in Section XII, below, applies to all complaints of *sex discrimination*, involving employees, students, or third parties, and to complaints of *sexual harassment, or sexual misconduct* that do not involve student Complainants or student Respondents.

The Complaint Resolution Process to Address Complaints of Sexual Harassment or Sexual Misconduct Involving Students (PROCESS B), set out in Section XIII, below, applies to all complaints of *sexual harassment, or sexual misconduct* that involve student Complainants or student Respondents.

Note that *sex discrimination, sexual harassment, and sexual misconduct* have different definitions. For clarity about the definition of each term, please consult the definitions in Section IV, above.

<p style="text-align: center;">Informal Resolution Process (Section X)</p>	<p style="text-align: center;">Complaint Resolution Process PROCESS A to Address Sex Discrimination Complaints and Complaints of Sexual Harassment or Misconduct - Not Involving Students (Section XII)</p>	<p style="text-align: center;">Complaint Resolution Process PROCESS B to Address Complaints of Sexual Harassment or Sexual Misconduct – Involving Students (Section XIII)</p>
<p>Available to resolve any complaint of sex discrimination, sexual harassment, or sexual misconduct</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Sex discrimination complaints—any Complainant or Respondent, including faculty, staff, students, or third parties <input type="checkbox"/> Sexual harassment and sexual misconduct complaints involving no students (e.g. employees, third parties) <input type="checkbox"/> Retaliation complaints—Any Complainant (unless consolidated with a Process B Complaint, in which case Process B applies) 	<ul style="list-style-type: none"> <input type="checkbox"/> Sexual harassment and sexual misconduct complaints involving student Complainants or student Respondents

Bethany Lutheran College Sexual Misconduct Policy

When a Complainant or Respondent is both a student and an employee of the College, the College will make a fact-specific inquiry to determine whether Process A, described in Section XII, or Process B, described in Section XIII, applies. In making this determination, the College will consider whether the party's primary relationship with the College is to receive an education and whether the alleged sexual harassment occurred while the party was performing employment-related work.

The Complaint Resolution Process A, set out in Section XII, below, also applies to complaints of retaliation brought in relation to a report or complaint of sex discrimination, sexual harassment, or sexual misconduct, unless the retaliation complaint is consolidated with a complaint of sexual harassment involving a student Complainant or student Respondent. In that case, the Complaint Resolution Process B set out in Section XIII applies.

When a sex discrimination complaint alleges that a College's policy or practice discriminates on the basis of sex, the College is not considered a Respondent under these procedures.

B. Training of Individuals Involved in Implementing Complaint Resolution Processes

All investigators, decisionmakers, Title IX Coordinators, and other persons responsible for implementing the College's Complaint Resolution Processes will be trained annually, as required by Federal Title IX regulations. As required by law, training also includes information about interacting with Complainants of Sexual Assault, including how to reduce the emotional distress resulting from the reporting, investigatory, and disciplinary process. All investigations under this Policy will be conducted by individuals who have been trained on how to conduct a prompt, fair, and impartial investigation; how to provide safety to individuals during an investigation; and how to promote accountability. Any materials used to train Title IX Coordinators, investigators, decisionmakers, and any person who facilitates an Informal Resolution Process will not rely on sex stereotypes and will promote impartial investigations and adjudications. All materials used to train Title IX Coordinators, investigators, decisionmakers, appeals officers, and Informal Resolution facilitators will be available upon request.

C. Bias and Conflict of Interest

The College requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

If a conflict of interest is determined with respect to any party affected by this Policy, appropriate accommodations will be made, such as, but not limited to, appointing or contracting with a consultant to conduct the investigation or recusing the conflicted person from the process.

Bethany Lutheran College Sexual Misconduct Policy

D. Standard of Proof

In implementing these Complaint Resolution Processes, the College will use the preponderance of evidence standard of proof to determine whether sex discrimination, sexual harassment, or sexual misconduct occurred. Applying this standard, the decisionmaker will evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination, sexual harassment, or sexual misconduct occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination, sexual harassment, or sexual misconduct occurred.

E. Burden of Proof

The burden is on the College—not the parties—to conduct an investigation under these Complaint Resolution Processes that gathers sufficient evidence to determine whether sex discrimination, sexual harassment, or sexual misconduct occurred.

F. Equitable Treatment and Presumption of Non-Responsibility

The College will treat Complainants and Respondents equitably when implementing these Complaint Resolution Processes. The College presumes that the Respondent is not responsible for the alleged sex discrimination, sexual harassment, or sexual misconduct until a determination is made at the conclusion of the Complaint Resolution Process.

G. Evaluation of Evidence

During all Complaint Resolution Processes, the College will perform an objective evaluation of all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence.

H. Credibility Determinations

Decisionmakers will not make credibility determinations based on a person's status as a Complainant, Respondent, or witness.

I. Limitation on Imposing Disciplinary Sanctions

The College may not impose any disciplinary sanctions of a Respondent for sex discrimination, sexual harassment, or sexual misconduct under this Policy unless a decisionmaker determines at the conclusion of a Complaint Resolution Process that the Respondent engaged in prohibited sex discrimination, sexual harassment, or sexual misconduct.

J. Advisors

The College will provide the parties with the same opportunities to have others present during any Complaint Resolution Process, including the opportunity to be accompanied to any related meetings or proceedings by an advisor of their choice. An advisor may be, but is not required to

Bethany Lutheran College Sexual Misconduct Policy

be, an attorney. Advisors may not participate in the meetings or proceedings, except as specifically allowed under this Policy.

The College will not limit the choice or presence of the advisor for either party in any meeting or proceeding. If an advisor learns of confidential information in the course of their role, they may not disclose such information other than for advising the Complainant or Respondent.

K. Participation Expected for Non-Parties

To ensure the College can gather the information necessary to uphold College policies, each non-party faculty, staff, or student who is requested to participate in an investigation is expected to fully cooperate with the investigator. Unless otherwise directed by the investigator, non-party faculty, students, and staff will be expected to limit their discussion of the matter under investigation to those who need to know the information for the purposes of assisting in the resolution of the complaint. Nothing in this paragraph is intended to limit or restrict a Complainant or Respondent from speaking about the allegations under investigation or contacting at any time the police or governmental agencies responsible for the enforcement of any applicable laws.

L. False evidence

Willfully submitting evidence that a party or witness knows to be false is a violation of College Policy. Allegations of submitting false evidence will be addressed under the student Code of Conduct if the evidence was submitted by a student. Allegations of submitting false evidence will be addressed under the employee Personal Conduct Policy if the evidence was submitted by an employee.

M. Discipline for Conduct during the Complaint Resolution Process

The College will not conclude that any participant in a process made false statements, and impose discipline as a result, based only on a determination that no sex discrimination, sexual harassment, or sexual misconduct occurred. Discipline for making false statements will occur only if an independent Student Code of Conduct or employee discipline process establishes that such statements were made.

N. Notice of Meetings

The College will provide any party whose participation is expected or invited written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, and other meetings, with sufficient time for the party to prepare to participate.

O. Privacy

The College will take reasonable steps to protect the privacy of the parties and witnesses during the reporting Process and Complaint Resolution Process, including during any Informal Resolution Process. These steps will not restrict the ability of the parties to obtain and present

Bethany Lutheran College Sexual Misconduct Policy

evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the Complaint Resolution Process.

The College will not disclose personally identifiable information obtained when responding to a report or complaint of sex discrimination, sexual harassment, or sexual misconduct under this Policy except

- When the College has obtained prior written consent from a person with the legal right to Consent to the disclosure;
- When the information is disclosed to someone with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- To carry out the purposes of the Policy, including action taken to address conduct that may constitute sex discrimination;
- As required by Federal law, Federal regulations, or the terms and conditions of a Federal award;
- To the extent such disclosure are not otherwise in conflict with Title IX, when required by State or local law or when permitted under FERPA.

The College will take reasonable steps to prevent and address any unauthorized disclosure of information and evidence obtained solely through Complaint Resolution Process. Disclosures for purposes of administrative proceedings or litigation related to the complaint are authorized.

P. Requests for Reasonable Accommodations

Individuals who need a reasonable accommodation to participate in a process should contact the Title IX Coordinator. The College will consider requests for reasonable accommodations submitted to the Title IX Coordinator on a case-by-case basis. Accommodations the College may provide include:

- Providing reasonable accommodations as required by law to an individual with a disability who requests an accommodation necessary to participate in the Complaint Resolution Process.
- Providing an interpreter for individuals who are limited English-language proficient.

Q. Reservation of Flexibility

The procedures set forth in this Policy reflect the College's desire to respond to complaints in good faith and in compliance with legal requirements. The College recognizes that each case is unique and that circumstances may arise which require that it reserve some flexibility in responding to the particular circumstances of the matter. The College reserves the right to modify the procedures or to take other administrative action as appropriate under the circumstances, as allowed under Title IX law.

Bethany Lutheran College Sexual Misconduct Policy

XII. COMPLAINT RESOLUTION PROCESS TO ADDRESS SEX DISCRIMINATION COMPLAINTS AND COMPLAINTS OF SEXUAL HARASSMENT NOT INVOLVING STUDENTS (PROCESS A)

The process described in this Section applies to all complaints of *sex discrimination* that involve employees, students, or Third parties, and to all complaints of *sexual harassment or sexual misconduct* that do not involve students. Note that *sex discrimination, sexual harassment, and sexual misconduct* have different definitions. For clarity about the definition of each term, please consult the definitions in Section IV.

Section XIII (Process B) of this Policy applies to all complaints of *sexual harassment and sexual misconduct* involving student Complainants or Respondents.

A. Commencing a Complaint Resolution Process

Any of the following persons may make a complaint of sex discrimination, sexual harassment, or sexual misconduct under this process:

- An employee of the College who is alleged to have been subjected to conduct that could constitute sex discrimination, sexual harassment, or sexual misconduct; or
- A parent, guardian or authorized legal representative with the legal right to act on behalf of a Complainant; or
- A person other than a student or employee of the College who is alleged to have been subjected to conduct that could constitute sex discrimination, sexual harassment, or sexual misconduct at a time when that person was participating or attempting to participate in the College's Education Program or Activity, and the person allegedly responsible for sexual harassment was not a student;
- The College's Title IX Coordinator, under the circumstances described below.

With respect to complaints of sex discrimination other than sexual harassment, in addition to the persons listed above, the following persons have the right to make a complaint under this process:

- any student of the College; or
- any person other than a student or employee who was participating or attempting to participate in the College's Education Program or Activity at the time of the alleged sex discrimination.

A Complaint Resolution Process to address a complaint of sex discrimination, sexual harassment, or sexual misconduct begins when a Complainant requests that the College move forward with a Process. A Complainant can make this request to the Title IX Coordinator, either in writing or in person.

If a Complainant does not request that the College move forward with a Process to address reported conduct, or the allegations in a complaint are withdrawn, the College may still move forward with a complaint if, after a fact-specific determination, the Title IX Coordinator concludes that a Process is necessary to address reported conduct. To make this determination, the Title IX Coordinator

Bethany Lutheran College Sexual Misconduct Policy

will consider, at a minimum, the following factors:

- The Complainant’s request not to proceed with initiating a complaint;
- The Complainant’s reasonable safety concerns about initiating a complaint;
- The risk that additional discriminatory conduct would occur if a complaint is not initiated;
- The severity of the conduct, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to stop the conduct and prevent its recurrence;
- The age and relationship of the parties, including whether the Respondent is an employee of the College;
- The scope of the alleged sex discrimination, including information suggesting a pattern of conduct, ongoing or recurring conduct, or conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- Whether the College could end the alleged sex discrimination and prevent its recurrence without initiating a Process.

If, after considering all relevant factors, the Title IX Coordinator concludes that the alleged conduct presents an imminent and serious threat to the health or safety of the Complainant or another person, or that the alleged conduct prevents the College from ensuring equal access to its Education Program or Activity, then the Title IX Coordinator may initiate a complaint.

Additionally, after reviewing a complaint, the Title IX Coordinator may conclude that the College will not move forward with a Complaint Resolution Process if they reasonably determine that the conduct alleged in the complaint could not constitute sex discrimination, sexual harassment, or sexual misconduct.

If the Title IX Coordinator decides to initiate a complaint, the College will ensure that the Complainant is notified prior to the initiation of the complaint and that appropriate measures are taken to address any reasonable concerns about the Complainant’s safety or the safety of others, including by providing supportive measures.

Two main steps occur after the Complaint Resolution Process is initiated by a complaint: (1) investigation and (2) adjudication. The investigation stage includes notice to the parties, assignment of an appropriate investigator, and commencement of the fact-finding process. Adjudication includes a determination of responsibility, imposition of sanctions, and an optional appeal.

B. Timeframes for Complaint Resolution Process A

The College will make every effort to conclude the process for resolving a complaint under this Policy within a reasonably prompt time frame, generally within 120 calendar days. This timeframe includes the period from commencement of an investigation through the determination and appeal. The timeframe for each major stage of the process is set out in the discussion of each stage.

Bethany Lutheran College Sexual Misconduct Policy

Occasionally, a process may be temporarily delayed or a timeframe extended for good cause. Good cause may include, but is not limited to, absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. If the College anticipates that a resolution process will be delayed or a timeframe extended, the Title IX Coordinator will provide written notice to the Complainant and Respondent of the delay or extension and the supporting reasons. Any party to the case may request an extension for good cause. The Title IX Coordinator will determine whether extensions are warranted for good cause.

C. Notices to Parties

After a Complaint Resolution Process is initiated, the College will provide notice of the allegations to the parties. The notice will include the following:

- The College's Complaint Resolution Process A;
- Availability of the Informal Resolution Process;
- Sufficient information, available at the time, to allow the parties to respond to the allegations, including the identities of parties involved in the incident(s), the conduct alleged to be discriminatory, and the relevant dates and locations;
- A statement that retaliation is prohibited;
- A statement that the parties are entitled to an equal opportunity to access an investigation report that describes the evidence collected during the investigation, including any documentary evidence attached to the investigation report, and that parties may request access to the evidence itself;

If, during an investigation, the College decides to investigate additional allegations of conduct by the Respondent towards the Complainant that are not described in the initial notice, the College will provide additional notice of the new allegations to the parties.

D. Dismissal of a Complaint

The College may dismiss a complaint made under this Section for any of the following reasons:

- The College is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in the College's educational program or activity or is not employed by the College;
- The Complainant voluntarily withdraws any or all of the allegations in the complaint, and the Title IX Coordinator declines to initiate a complaint;
- After making reasonable efforts to clarify the allegations with the Complainant, the Title IX Coordinator determines that the alleged conduct, even if proven, would not constitute sex discrimination.

If a complaint is dismissed because the Complainant voluntarily withdraws the allegations, the Title IX Coordinator will obtain the Complainant's withdrawal in writing.

Bethany Lutheran College Sexual Misconduct Policy

Generally, a decision to dismiss a complaint will be made within 30 calendar days of the filing of the complaint. A Complainant may decide to voluntarily withdraw allegations at any time, however, which may lead to a decision to dismiss.

When a complaint is dismissed, the Title IX Coordinator will promptly notify the Complainant of the basis for the dismissal. If the complaint is dismissed after the Respondent has been notified of the complaint, the Title IX Coordinator will also promptly notify the Respondent of the dismissal and the basis for the dismissal. If the notification of dismissal is in writing, the parties will be notified simultaneously.

The Title IX Coordinator will notify the parties of the right to appeal a dismissal.

E. Appeal of a Complaint Dismissal

The dismissal of a complaint may be appealed by the Complainant or by the Respondent, if the Respondent has been notified of the allegations.

An appeal may be made on the following bases:

- Procedural irregularity that would change the outcome.
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

To appeal a complaint dismissal, a party should submit to the Title IX Coordinator a written appeal request that includes a brief explanation of the basis of the appeal. The request must be submitted within three business days of notification of the dismissal. The Title IX Coordinator will notify the parties of the appeal. The appeal notification will include notice of the allegations, as described in the Notice section above, if notice of the allegations was not previously provided to the Respondent. The parties then have five business days to submit a written statement in support of or challenging the complaint dismissal to the decisionmaker for the appeal.

The decisionmaker for the appeal will be appointed by the Title IX Coordinator, and will be either an employee of the College or an external consultant. The decisionmaker shall not have taken part in an investigation of the allegations, the decision to dismiss the complaint, or any Informal Resolution proceedings related to the complaint. The decisionmaker for the appeal will be trained, as required by the Title IX regulations, and will be free of bias and conflict of interest.

Within five business days of the deadline for parties to submit a written statement on the appeal, the decisionmaker will notify the parties of the result of the appeal and the rationale for the result in writing.

After the dismissal of a complaint, the College will offer supportive measures to the Complainant, as appropriate. The Title IX Coordinator will take other appropriate steps to ensure that sex

Bethany Lutheran College Sexual Misconduct Policy

discrimination does not continue or recur within the College's educational program.

Appeal procedures will be implemented equally for the parties.

F. Consolidation of Complaints

The College may consolidate complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances.

If one of the complaints to be consolidated is a complaint of sexual harassment involving a student Complainant or student Respondent, this Complaint Resolution Process B applies.

G. Investigation

Overview: An investigation is a fact-finding process that leads to a determination of whether a particular action or incident constitutes a violation of this Policy. During the investigation, an investigator will meet with parties and witnesses to collect information and evidence. At the end of the investigation Process, the investigator will produce a written report and make a determination about whether a Policy violation has occurred. The investigator will forward the determination to the Title IX Coordinator. The Title IX Coordinator, in consultation with the Title IX team, will determine sanctions.

The Title IX Coordinator will appoint an investigator at the beginning of the Complaint Resolution Process. The investigator may be an employee of the College or may be an external consultant. The investigator will be trained to conduct Title IX investigations, including how to conduct an investigation that is adequate, reliable, and impartial. The investigator will be free of bias or conflicts of interest. The investigator will not have participated in any Informal Resolution Process between the parties.

During the investigation, the investigator will gather evidence by conducting individual interviews with the parties and with other individuals who the investigator determines may have knowledge of the events. The investigator will also collect evidence in the form of text messages, social media messages, emails, videos, photos, security cameras, and other sources, as appropriate. The investigator will ask questions relevant to credibility of parties and witnesses, as needed. The investigation may also consist of any other methods deemed pertinent by the investigator.

Generally, the investigation stage of the process will be completed within 45 calendar days.

H. Privacy During the Investigation

The College recognizes the need for privacy during an investigation and will take steps to protect the privacy of the parties. The College does not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the Complaint Resolution Process.

Bethany Lutheran College Sexual Misconduct Policy

Unless otherwise directed by the investigator, students and employees who participate in an investigation as witnesses will be expected to limit their discussion of the matter under investigation to those who need to know the information for the purposes of assisting in the resolution of the complaint.

Nothing in this Section is intended to limit or restrict in any way a Complainant from contacting at any time the police or governmental agencies responsible for the enforcement of any applicable laws.

I. Evidence Collected During the Investigation

While the College bears the burden of gathering evidence to investigate a complaint, the parties will have an equal opportunity to present witnesses, including fact and expert witnesses, if allowed, and other inculpatory and exculpatory evidence.

The following types of evidence, and questions seeking that evidence, are not allowed during an investigation and will not be accessed or considered during the Complaint Resolution Process:

- (1) Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- (2) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the College obtains that party's or witness's voluntary, written Consent for use in its Complaint Resolution Process; and
- (3) Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged sexual harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged sexual harassment or preclude determination that sexual harassment occurred.

Evidence of a Respondent's prior sex-based conduct may be admitted as pattern evidence if, after an objective evaluation, it is determined to be relevant to the allegations under investigation and may aid the decisionmaker in determining whether the conduct occurred. Decisions about pattern evidence will be made on a case-by-case basis.

J. Close of Evidence

Before the investigator drafts an investigation report, the Title IX Coordinator and investigator will confer and determine a "close of evidence" date (the deadline for submitting further evidence). The Title IX Coordinator will inform the parties of the pending close of the investigation phase and close of evidence date so that the parties will have an opportunity to submit any additional

Bethany Lutheran College Sexual Misconduct Policy

evidence and/or suggest additional witnesses to be interviewed. The parties will not be permitted to introduce additional evidence after the close of evidence date unless the College deems it necessary in meeting its burden of proof and burden of gathering evidence sufficient to reach a determination.

K. Investigation Report and Review

The investigator will review all of the evidence gathered through the investigation and determine what evidence is relevant. The investigator will also determine whether any of the evidence is impermissible under the previous Section and should be excluded. The investigator will then produce a written investigation report that accurately describes the relevant and permissible evidence and includes, by attachment or other means, any relevant documentary evidence.

The parties will then have the opportunity to access the investigation report and any documentary evidence included with the report. Access to the report will be facilitated by the Title IX Coordinator, who will arrange for a reasonable time period for the review, typically ten business days. The parties may submit a written response to the investigation report by the end of the review period. The parties' responses will be attached to the report, and the investigator will consider the responses before making a determination about whether a Policy violation occurred. Parties may be assisted in their review of the report and in preparing their response to the report by an advisor of their choice.

In addition to accessing the investigation report, upon request to the Title IX Coordinator, either party may also access the relevant and not impermissible evidence. Parties will have an equal opportunity to access the relevant evidence.

The College will take reasonable steps to prevent and address any unauthorized disclosure of information and evidence obtained through the Complaint Resolution Process, including during the evidence review and response period. During the evidence review period, this may involve restricting access to the report and evidence, watermarking the report and evidence, or other measures.

L. Determination of Responsibility

At the end of the investigation report review period, the investigator will evaluate all relevant and not impermissible evidence for persuasiveness, and, applying the preponderance of evidence standard of proof, make a determination about whether sex discrimination, sexual harassment, or sexual misconduct occurred. The investigator will then forward the investigation report and any supporting documentary evidence, the parties' responses to the report, and the determination and supporting rationale about whether sex discrimination, sexual harassment, or sexual misconduct occurred to the Title IX Coordinator. The Title IX Coordinator will determine sanctions, in consultation with the Title IX team.

Upon receiving the determination of whether sex discrimination, sexual harassment, or sexual misconduct has occurred and after determining sanctions, the Title IX Coordinator will notify the parties in writing of the determination. The written notification to the parties will include a

Bethany Lutheran College Sexual Misconduct Policy

rationale for the determination and will explain the procedures and permissible bases for the parties to appeal.

The determination of responsibility is final on the date the College provides the parties with a written determination of the result of any appeal, or, if an appeal is not filed, on the date on which an appeal would no longer be timely.

Generally, the determination stage of the process will be completed within 30 calendar days.

M. Appeals

The determination of responsibility may be appealed by the Complainant or the Respondent. Appeals are not intended to be a full re-investigation of the complaint. In most cases, appeals are confined to a review of the appeal request, the investigation report and supporting documentation, and the parties' appeal statements.

An appeal may be made on the following bases:

- Procedural irregularity that would change the outcome.
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

To appeal a determination of responsibility, a party should submit to the Title IX Coordinator a written appeal request that includes a brief explanation of the basis of the appeal. The request must be submitted within three business days of notification of the determination of responsibility. The Title IX Coordinator will notify the parties of the appeal in writing, including the basis for the appeal. The parties then have five business days to submit a written statement in support of or challenging the determination of responsibility.

The decisionmaker for the appeal will be appointed by the Title IX Coordinator, and will be either an employee of the College or an external consultant. The decisionmaker shall not have taken part in an investigation of the allegations or any Informal Resolution proceedings related to the complaint. The decisionmaker for the appeal will be trained, as required by the Title IX regulations, and will be free of bias and any conflict of interest.

Within ten business days of the deadline for parties to submit a written statement on the appeal, the decisionmaker will notify the parties of the result of the appeal and the rationale for the result in writing. The decisionmaker may take, but is not limited to, the following actions:

- Affirm the determination of responsibility;
- Remand for additional procedures or additional investigation, if any of the bases for appeal is satisfied.

Bethany Lutheran College Sexual Misconduct Policy

Appeal procedures will be implemented equally for the parties.

N. Sanctions and Remedies

The Title IX Coordinator will coordinate any disciplinary sanctions imposed on the Respondent and will notify the Complainant about any disciplinary sanctions. Possible sanctions include, but are not limited to:

- No-contact directive
- Restriction or loss of privileges
- Probation
- Disciplinary Warning
- Suspension of promotion and salary increments
- Loss of prospective benefits
- Reduction in salary
- Demotion
- Required counseling and/or assessment
- Unpaid Suspension
- Termination of employment
- Other available sanctions as specified by the College's Faculty or Staff Handbook
- Discontinuation of relationship or association (in the case of a Third party)

Sanctions may be combined.

Where a determination of responsibility for sexual harassment has been made against a Respondent, the College may also provide Remedies to a Complainant or to any other person whose access to the College's Education Program or Activity was limited or denied by the sex discrimination. Remedies will be designed to restore or preserve equal access to the College's Education Program or Activity. The Title IX Coordinator will coordinate the provision and implementation of Remedies. Remedies may include any of the supportive measures listed in Section IX (A), above. The Title IX Coordinator may also take other appropriate steps to ensure that sex discrimination does not continue or recur.

XIII. COMPLAINT RESOLUTION PROCESS TO ADDRESS COMPLAINTS OF SEXUAL HARASSMENT AND SEXUAL MISCONDUCT INVOLVING STUDENTS (PROCESS B)

The Process described in this Section applies to complaints of *sexual harassment or sexual misconduct* involving student Complainants or student Respondents. Note that *sex discrimination, sexual harassment, and sexual misconduct* have different definitions. For clarity about the definition of each term, please consult the definitions in Section IV.

Note that the Complaint Resolution Process described in Section XII (Process A) of this Policy applies to all complaints of *sex discrimination*, including those involving students.

Bethany Lutheran College Sexual Misconduct Policy

A. Commencing a Complaint Resolution Process

Any of the following persons may make a complaint of sexual harassment or sexual misconduct under this process:

- A student of the College who is alleged to have been subjected to conduct that could constitute sex discrimination;
- A parent, guardian or authorized legal representative with the legal right to act on behalf of a Complainant; or
- A person other than a student or employee of the College who is alleged to have been subjected to conduct that could constitute sexual harassment at a time when that person was participating or attempting to participate in the College's Education Program or Activity, and the person allegedly responsible for sexual harassment was a student; or
- The College's Title IX Coordinator, under the circumstances described below.

A Complaint Resolution Process to address a complaint of sexual harassment or sexual misconduct involving a student begins when a Complainant requests that the College move forward with a Process. A Complainant can make this request to the Title IX Coordinator, either in writing or in person.

If a Complainant does not request that the College move forward with a Process to address reported conduct, or the allegations in a complaint are withdrawn, the College may still move forward with a complaint if, after a fact-specific determination, the Title IX Coordinator concludes that a Process is necessary to address the reported conduct. To make this determination, the Title IX Coordinator will consider, at a minimum, the following factors:

- The Complainant's request not to proceed with initiating a complaint;
- The Complainant's reasonable safety concerns about initiating a complaint;
- The risk that additional discriminatory conduct would occur if a complaint is not initiated;
- The severity of the conduct, including whether the sexual harassment, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to stop the conduct and prevent its recurrence;
- The age and relationship of the parties, including whether the Respondent is an employee of the College;
- The scope of the alleged sexual harassment, including information suggesting a pattern of conduct, ongoing or recurring conduct, or conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- Whether the College could end the alleged sexual harassment and prevent its recurrence without initiating a Process.

If, after considering all relevant factors, the Title IX Coordinator concludes that the alleged conduct presents an imminent and serious threat to the health or safety of the Complainant or another person, or that the alleged conduct prevents the College from ensuring equal access to its Education

Bethany Lutheran College Sexual Misconduct Policy

Program or Activity, then the Title IX Coordinator may initiate a complaint.

Additionally, after reviewing a complaint, the Title IX Coordinator may conclude that the College will not move forward with a Complaint Resolution Process if they reasonably determine that the conduct alleged in the complaint could not constitute sexual harassment.

If the Title IX Coordinator decides to initiate a complaint, the College will ensure that the Complainant is notified prior to the initiation of the complaint and that appropriate measures are taken to address any reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures.

Two main steps occur after the Complaint Resolution Process is initiated by a complaint: (1) investigation and (2) adjudication. The investigation stage includes notice to the parties, assignment of an appropriate investigator, and commencement of the fact-finding Process. Adjudication includes a determination of responsibility, imposition of sanctions, and an optional appeal.

B. Timeframes for Complaint Resolution Process B

The College will make every effort to conclude a process for resolving a complaint under this Policy within a reasonably prompt time frame, generally within 120 to 150 calendar days. This timeframe includes the period from commencement of an investigation through the determination and appeal. The timeframe for each major stage of the process is set out in the discussion of each stage.

Occasionally, a process may be temporarily delayed or a timeframe extended for good cause. Good cause may include, but is not limited to, absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. If the College anticipates that a resolution process will be delayed or a timeframe extended, the Title IX Coordinator will provide written notice to the Complainant and Respondent of the delay or extension and the supporting reasons. Any party to the case may request an extension for good cause. The Title IX Coordinator will determine whether extensions are warranted for good cause.

C. Notices to Parties

After a Complaint Resolution Process is initiated, the College will provide notice of the allegations to the parties. The notice will include the following:

- The College's Complaint Resolution Process (students);
- Availability of the Informal Resolution Process;
- Sufficient information, available at the time, to allow the parties to respond to the allegations, including the identities of parties involved in the incident(s), the conduct alleged to be discriminatory, and the relevant dates and locations;
- A statement that retaliation is prohibited;
- A statement that the parties are entitled to an equal opportunity to access an investigation

Bethany Lutheran College Sexual Misconduct Policy

report that describes the evidence collected during the investigation, including any documentary evidence attached to the investigation report, and that parties may request access to the evidence itself;

- A statement that the Respondent is presumed not responsible for the alleged sexual harassment until a determination is made at the conclusion of the Complaint Resolution Process and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- A statement that the parties may have an advisor of their choice and that the advisor may be, but is not required to be, an attorney;
- A Statement that the parties are entitled to an equal opportunity to access an investigative report that accurately summarizes this evidence, and are entitled to an equal opportunity to access the relevant and not impermissible evidence upon request; and
- The College's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the Complaint Resolution Process.

If, during an investigation, the College decides to investigate additional allegations of sex discrimination, sexual harassment, or sexual misconduct by the Respondent towards the Complainant that are not described in the initial notice, the College will provide additional notice of the new allegations to the parties.

If the College has reasonable concerns for the safety of any person as a result of providing this written notice of allegations, the College may delay providing the notice in order to address the safety concerns. Reasonable concerns must be based on individualized safety and risk analysis and not on speculation or stereotypes.

D. Dismissal of a Complaint

The College may dismiss a complaint made under this Section for any of the following reasons:

- The College is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in the College's educational program or activity or is not employed by the College;
- The Complainant voluntarily withdraws any or all of the allegations in the complaint, and the Title IX Coordinator declines to initiate a complaint;
- After making reasonable efforts to clarify the allegations with the Complainant, the Title IX Coordinator determines that the alleged conduct, even if proven, would not constitute sexual harassment.

If a complaint is dismissed because the Complainant voluntarily withdraws the allegations, the Title IX Coordinator will obtain the Complainant's withdrawal in writing.

If a complaint is dismissed because the Complainant voluntarily withdraws the allegations, the Title IX Coordinator will obtain the Complainant's withdrawal in writing.

Generally, a decision to dismiss a complaint will be made within 30 calendar days of the filing of the complaint. A Complainant may decide to voluntarily withdraw allegations at any time,

Bethany Lutheran College Sexual Misconduct Policy

however, which may lead to a decision to dismiss.

When a complaint is dismissed, the Title IX Coordinator will simultaneously notify the parties of the dismissal and the basis for the dismissal. If a dismissal occurs before the Respondent has been notified of the allegations, the Title IX Coordinator will provide notice of dismissal only to the Complainant.

The Title IX Coordinator will notify the parties of the right to appeal a dismissal.

E. Appeal of a Complaint Dismissal

The dismissal of a complaint may be appealed by the Complainant or by the Respondent, if the Respondent has been notified of the allegations.

An appeal may be made on the following bases:

- Procedural irregularity that would change the outcome.
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

To appeal a complaint dismissal, a party should submit to the Title IX Coordinator a written appeal request that includes a brief explanation of the basis of the appeal. The request must be submitted within three business days of notification of the dismissal. The Title IX Coordinator will notify the parties of the appeal. The appeal notification will include notice of the allegations, as described in the Notice section above, if notice of the allegations was not previously provided to the Respondent. The parties then have five business days to submit a written statement in support of or challenging the complaint dismissal to the decisionmaker for the appeal.

The decisionmaker for the appeal will be appointed by the Title IX Coordinator, and will be either an employee of the College or an external consultant. The decisionmaker shall not have taken part in an investigation of the allegations, the decision to dismiss the complaint, or any Informal Resolution proceedings related to the complaint. The decisionmaker for the appeal will be trained, as required by the Title IX regulations, and will be free of bias and conflict of interest.

Within five business days of the deadline for parties to submit a written statement on the appeal, the decisionmaker will notify the parties of the result of the appeal and the rationale for the result in writing.

After the dismissal of a complaint, the College will offer supportive measures to the Complainant, as appropriate. The Title IX Coordinator will take other appropriate steps to ensure that sexual harassment does not continue or recur within the College's educational program.

Appeal procedures will be implemented equally for the parties.

Bethany Lutheran College Sexual Misconduct Policy

F. Consolidation of Complaints

The College may consolidate complaints of sexual harassment against more than one Respondents, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations arise out of the same facts or circumstances.

G. Investigation

An investigation is a fact-finding process that leads to a determination of whether a particular action or incident constitutes a violation of this Policy. During the investigation, an investigator will meet with the parties and witnesses to collect information and evidence that will assist in making a determination about whether a policy violation occurred.

At the beginning of the Complaint Resolution Process, the Title IX Coordinator will appoint an investigator. The investigator may be an employee of the College or may be an external consultant. The investigator will be trained to conduct Title IX investigations, including how to conduct an investigation that is adequate, reliable, and impartial. The investigator will be free of bias or conflicts of interest. The investigator will also serve as the decisionmaker at the end of the investigation Process, and, as such, will make a determination about whether a violation of this Policy occurred.

During the investigation, the investigator will gather evidence by conducting individual interviews with the parties and with other individuals who the investigator determines may have knowledge of the events. The investigator will also collect evidence in the form of text messages, social media messages, emails, videos, photos, security cameras, and other sources, as appropriate. The investigator may seek evidence relevant to the credibility of parties and witnesses. The investigation may also consist of any other methods deemed pertinent by the investigator.

To ensure the College can gather the information necessary to uphold College policies, each student or employee who is requested to participate in an investigation is required to fully cooperate with the investigator.

The College will provide parties whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all investigative interviews or other proceedings with sufficient time for the party to prepare to participate.

Generally, the Investigation stage of the process will be completed within 30 calendar days.

H. Privacy During the Investigation

The College recognizes the need for privacy during an investigation and will take steps to protect the privacy of the parties. The College does not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the Complaint Resolution Process.

Bethany Lutheran College Sexual Misconduct Policy

Unless otherwise directed by the investigator, students and employees who participate in an investigation as witnesses will be expected to limit their discussion of the matter under investigation to those who need to know the information for the purposes of assisting in the resolution of the complaint.

Nothing in this section is intended to limit or restrict in any way a Complainant from contacting at any time the police or governmental agencies responsible for the enforcement of any applicable laws.

I. Evidence Collected During the Investigation

While the College bears the burden of gathering evidence to investigate a complaint, the parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

The following types of evidence, and questions seeking that evidence, are not allowed during an investigation and will not be accessed or considered during the Complaint Resolution Process:

- (1) Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- (2) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the College obtains that party's or witness's voluntary, written Consent for use in its Complaint Resolution Process; and
- (3) Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove Consent to the alleged sexual harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's Consent to the alleged sexual harassment or preclude determination that sexual harassment occurred.

Evidence of a Respondent's prior sex-based conduct may be admitted as pattern evidence if, after an objective evaluation, it is determined to be relevant to the allegations under investigation and may aid the decisionmaker in determining whether the conduct occurred. Decisions about pattern evidence will be made on a case-by-case basis.

J. Close of Evidence

Before the investigator drafts an investigation report, the Title IX Coordinator and investigator will confer and determine a "close of evidence" date (the deadline for submitting further evidence). The Title IX Coordinator will inform the parties of the pending close of the investigation phase and close of evidence date so that the parties will have an opportunity to submit any additional evidence and/or suggest additional witnesses to be interviewed. The parties will not be permitted

Bethany Lutheran College Sexual Misconduct Policy

to introduce additional evidence after the close of evidence date unless the College deems it necessary in meeting its burden of proof and burden of gathering evidence sufficient to reach a determination.

K. Investigation Report Review and Opportunity for Parties to Ask Questions of Parties and Witnesses

The investigator will review all of the evidence gathered through the investigation and determine what evidence is relevant. The investigator will also determine whether any of the evidence is impermissible under Subsection I, above, and should be excluded. The investigator will then produce a written investigation report that accurately describes the relevant and permissible evidence and includes, by attachment or other means, any relevant documentary evidence.

The parties will then have the opportunity to access and review the investigation report and any documentary evidence included with the report. Access to the report will be facilitated by the Title IX Coordinator, who will arrange for a reasonable time period for the review, typically ten business days.

In addition to accessing the investigation report, upon request to the Title IX Coordinator, either party may also access the relevant and not impermissible evidence. Parties will have an equal opportunity to access the relevant evidence.

During the ten-day review period, the investigator will coordinate a process through which the parties may propose questions and follow-up questions for the parties and witnesses. The purpose of the questioning process is to gather additional information regarding the allegations and the credibility of the parties and witnesses. The process is not intended to be a reinvestigation of the complaint.

During the review period, the parties may prepare proposed questions for the other party and for witnesses and submit those questions to the investigator in writing. A party's advisor may assist with preparation of questions. Each party may submit an initial set of questions to the investigator by the end of the ten-day review period. The Title IX Coordinator may assist with facilitating the process. Questioning will never be conducted by a party personally.

Upon receipt of the parties' proposed questions, the investigator will evaluate the questions to determine whether they seek relevant and not impermissible evidence. The investigator will allow and ask all relevant and not impermissible questions. If the investigator decides to exclude a question as not relevant or as impermissible, they will explain the decision in writing to the party proposing the question.

Questions that are unclear or harassing of a party or witness will not be allowed. If the investigator determines that a question is unclear or harassing of a party, the investigator will give the party proposing the question the opportunity to clarify or revise the question. If the party sufficiently clarifies or revises the question, the investigator will ask the question.

Bethany Lutheran College Sexual Misconduct Policy

After evaluating all proposed questions for relevance and clarity, the investigator will meet individually with parties and witnesses to ask all proposed relevant and not impermissible questions. During these individual meetings, the investigator may also ask relevant and not impermissible questions of their own devising. All individual meetings with the investigator will be audio recorded. These individual meetings will occur within a reasonable time after the end of the review period and submission of the questions.

After the completion of individual meetings with parties and witnesses to ask relevant questions, the investigator or Title IX Coordinator will provide each party with either the audio recording or a transcript of the individual meetings in which the questions were asked. The recordings will be provided to the parties within a reasonable time after the completion of the individual meetings.

The parties may then submit to the investigator any proposed follow-up questions for the other party or for witnesses. Follow-up questions must be submitted to the investigator within three business days of the receipt of the recordings or transcript. The investigator will then meet again with parties and witnesses in individual meetings, as necessary, to ask any relevant and not impermissible follow-up questions. The investigator will notify each party at the close of the questioning process.

After the close of the questioning process, the parties may each submit a written response to the investigation report and the questioning process. The written response must be submitted within five business days of the close of the questioning process. Parties may be assisted by their advisor in their review of the report and in preparing their response.

The College will take reasonable steps to prevent and address any unauthorized disclosure of information and evidence obtained through the Complaint Resolution Process, including during the evidence review and response period and the questioning Process. During the evidence review period and questioning process, this may involve restricting access to the report and evidence, watermarking the report and evidence, or other measures.

L. Determination of Responsibility

At the end of the investigation report review period and questioning process, the investigator will evaluate all relevant and not impermissible evidence and any responses of the parties. The investigator will then make a written determination about whether sexual harassment or sexual misconduct occurred, applying the Preponderance of Evidence standard of proof. The investigator will include a written rationale with the recommendation.

In making a recommendation, the investigator may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible during the questioning Process. The investigator will not draw an inference about whether sexual harassment or sexual misconduct occurred based solely on a party's or witness's refusal to respond to such questions.

The investigator will then forward to the Title IX Coordinator the investigation report and any

Bethany Lutheran College Sexual Misconduct Policy

supporting documentary evidence, the parties' responses to the report, and the determination and written rationale about whether sexual harassment or sexual misconduct occurred.

If the investigator determined that a Policy violation occurred in the case, the Title IX Coordinator will determine sanctions. The Title IX Coordinator may consult other members of the College's Title IX team in determining sanctions.

Title IX Coordinator will simultaneously notify the parties in writing of the outcome. The written notification to the parties will include

- A description of the alleged sexual harassment or sexual misconduct;
- Information about the policies and procedures that the College used to evaluate the allegations;
- The investigator's/decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sexual harassment or sexual misconduct occurred;
- When the investigator/decisionmaker finds that sexual harassment or sexual misconduct occurred, any disciplinary sanctions the College will impose on the Respondent, and whether Remedies other than the imposition of disciplinary sanctions will be provided by the College to the Complainant, and/or, if appropriate, to other students experiencing the effects of the sexual harassment or sexual misconduct; and
- The College's procedures and permissible bases for the Complainant and Respondent to appeal.

The determination of responsibility is final on the date the College provides the parties with a written determination of the result of any appeal, or, if an appeal is not filed, on the date on which an appeal would no longer be timely.

Generally, the determination stage of the process will be completed within 30 calendar days.

M. Appeals

The determination of responsibility may be appealed by the Complainant or the Respondent. Appeals are not intended to be a full reinvestigation of the complaint. In most cases, appeals are confined to a review of the appeal request, the investigation report and supporting documentation, and the parties' appeal statements.

An appeal may be made on the following bases:

- Procedural irregularity that would change the outcome.
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

Bethany Lutheran College Sexual Misconduct Policy

To appeal a determination of responsibility, a party should submit to the Title IX Coordinator a written appeal request that includes a brief explanation of the basis of the appeal. The request must be submitted within three business days of notification of the determination of responsibility. The Title IX Coordinator will notify the parties of the appeal in writing, including the basis for the appeal. The parties then have business five business days to submit a written statement in support of or challenging the determination of responsibility.

The decisionmaker for the appeal will be appointed by the Title IX Coordinator and will be either an employee of the College or an external consultant. The decisionmaker will not have taken part in an investigation of the allegations or any Informal Resolution proceedings related to the complaint. The decisionmaker for the appeal will be trained, as required by the Title IX regulations, and will be free of bias and any conflict of interest.

Within ten business days of the deadline for parties to submit a written statement on the appeal, the decisionmaker will notify the parties in writing of the result of the appeal and the rationale for the result. The decisionmaker may take, but is not limited to, the following actions:

- Affirm the determination of responsibility;
- Remand for additional procedures or additional investigation if any of the bases for appeal is satisfied.

Appeal procedures will be implemented equally for the parties.

N. Sanctions and Remedies

The Title IX Coordinator will coordinate any disciplinary sanctions imposed on the Respondent and will notify the Complainant about any disciplinary sanctions. Possible sanctions for students include, but are not limited to:

- No-contact directive
- Restriction of privileges
- Required attendance at educational programs
- Restitution
- Revocation of an honor or degree
- Probation
- Written Warning
- Suspension
- Dismissal
- Any other sanctions listed in the Code of Student Conduct or deemed appropriate under the circumstances

Possible sanctions for employees include, but are not limited to:

- No-contact directive
- Restriction or loss of privileges

Bethany Lutheran College Sexual Misconduct Policy

- Probation
- Disciplinary Warning
- Suspension of promotion and salary increments
- Loss of prospective benefits
- Reduction in salary
- Demotion
- Required counseling and/or assessment
- Unpaid Suspension
- Termination of employment
- Other available sanctions as specified by the College's Faculty or Staff Handbook
- Discontinuation of relationship or association (in the case of a Third party)

Sanctions may be combined.

Where a determination of responsibility for sexual harassment or sexual misconduct has been made against a Respondent, the College may also provide Remedies to a Complainant or to any other person whose access to the College's Education Program or Activity was limited or denied by the sex discrimination. Remedies will be designed to restore or preserve equal access to the College's Education Program or Activity. The Title IX Coordinator will coordinate the provision and implementation of Remedies. Remedies may include any of the supportive measures listed in Section IX (A), above. The Title IX Coordinator may also take other appropriate steps to ensure that sex discrimination does not continue or recur.

XIV. RECORDKEEPING

The College will maintain records of its response to all complaints addressed under this Policy for seven years. Records will document

- Each sex discrimination, sexual harassment, or sexual misconduct investigation conducted by the College, including any determination regarding responsibility, any audio or audiovisual recording or transcript of a Complaint Resolution Process meeting, any disciplinary sanctions imposed on a Respondent, and any Remedies provided to the Complainant;
- Any appeal and the result therefrom;
- Any Informal Resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, investigators, decisionmakers, appeals officers, and Informal Resolution facilitators.

The College will also maintain records about all reports of sex discrimination, sexual harassment, or sexual misconduct for seven years. Records maintained will include documentation about any actions taken, including the provision of supportive measures in response to a report or complaint. If supportive measures are not provided in response to a report or complaint, the College will document the reasons for that action.

Bethany Lutheran College Sexual Misconduct Policy

XV. COLLEGE REPORTING OBLIGATIONS

Under the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), the College has a legal duty to track and publish information about certain types of sexual misconduct. The College will collect, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing, among other things, information relating to the Campus crime statistics of the College and statistics concerning the occurrence on Campus, in or on non-campus buildings or property, and on public property, all criminal offenses reported to Campus security authorities related, among other things, to forcible or non-forcible sex offenses, Dating Violence, Domestic Violence, Sexual Assault, and Stalking. The College will not disclose the Complainant’s name or other personally identifiable information in its report.

In addition to its reporting obligations under the Clery Act, under Minnesota Law, the College has a legal duty to track and report similar information about sexual misconduct on its website and to the Minnesota Office of Higher Education.

The College also must issue timely warnings to students and employees for certain types of incidents reported to them that pose a substantial threat of bodily harm or danger to members of the College community. The College will make every effort to ensure that a Complainant’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. Compliance with this Policy does not constitute a violation of section 444 of the General Education Provisions Act (20 U.S.C. § 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

XVI. COOPERATION WITH LAW ENFORCEMENT

The College will comply with law enforcement’s request for cooperation and such cooperation may require the College to suspend temporarily the fact-finding aspect of a Title IX investigation while the law enforcement agency gathers evidence. The College will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering Process, which typically takes three to ten calendar days, although the delay in the College’s investigation could be longer in certain instances.

The College will implement appropriate interim steps during the law enforcement agency’s investigation period to provide for the safety of the Complainant(s) and the campus community and the avoidance of retaliation.

When appropriate or legally obligated, the College may share investigative information with the law enforcement.

XVII. ALTERNATIVE COMPLAINT PROCEDURES

The procedures set out in this Policy do not deny the right of any individual to pursue other avenues of recourse which may include, but are not limited to, filing a complaint with the United States Department of Education Office for Civil Rights (OCR).

Bethany Lutheran College Sexual Misconduct Policy

The OCR office for Minnesota is located 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

Appendix A

Minnesota Crime Victims Bill of Rights

Pursuant to state law, victims of crime must be informed of their rights under the Crime Victims Bill of Rights. The following is a summary of crime victims' rights under Minnesota law.

When a crime is reported to law enforcement, 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;
- Participate in prosecution of the case, including the right to be informed of a prosecutor's decision to decline prosecution or dismiss their case;
- Protection from harm, including information about seeking a protective or harassment order at no cost;
- Protection against employer retaliation for taking time off to attend protection or harassment restraining order proceedings; and
- Assistance from the Crime Victims Reparations Board and the Commissioner of Public Safety.

Individuals who have experienced domestic abuse also have the right to terminate a lease without penalty. Individuals who have experienced sexual assault have the right to 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, victims also have the right to be provided notice of the release of the offender, including information on the release conditions and supervising agency.

Bethany Lutheran College

Sexual Misconduct Policy

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>.

Information about victims' rights also is available from the Title IX Coordinator or from the Minnesota Department of Public Safety, Office of Justice Programs, and in [Minnesota Statutes Chapter 611A](#).

Appendix B

COLLEGE AND COMMUNITY RESOURCES

Options for Assistance Following an Incident of Sexual Assault

- Go to a safe place.
- Call **911** if in immediate danger, if you are injured, or the community is in possible danger.
- Consider securing immediate professional support on or off campus to assist you in the crisis.
- Seek appropriate medical care as soon as possible for injuries, preventive treatment for sexually transmitted diseases, and possible evidence collection. Treatment can be sought before reporting the assault to the police or to Campus Security. Further, being examined as soon as possible, ideally within 24 hours, is important in the case of Sexual Assault. The hospital will arrange for a specific medical examination at no charge. Even if you do not want to report the incident to the police, or some time has passed since the assault, you may still need and benefit from medical attention.
 - Mayo Clinic Health System (Emergency Room)
1230 Marsh Street, Mankato, MN 56001
(507) 625-4031 OR 1-800-327-3721
 - Mankato Clinic Urgent Care
1230 East Main Street, Mankato, MN 56001
(507) 625-7684
Monday-Friday: 8 a.m. - 8 p.m.
Saturday: 8 a.m. - 5 p.m.
Sunday: 11 a.m. - 5 p.m.
- Preserve any evidence found on or in the body, which may be necessary to the proof of criminal sexual violence or in obtaining a protection order. It is very important to preserve evidence. You may not know right now whether you will contact the police. But in case you later decide to, the evidence available immediately after the assault is crucial. To preserve evidence, follow these recommendations: Prior to seeking medical attention, do not shower, bathe, wash your hands, brush your teeth, use the toilet or clean

Bethany Lutheran College Sexual Misconduct Policy

up in any way. Bring another set of clothes to the hospital since clothes will be collected as part of the evidence. If you have changed clothes, bring your soiled clothing with you for evidence collection. Additionally, you are encouraged to gather bedding, linens or any other pertinent articles that may be used for evidence. Secure them in a clean paper bag or clean sheet. Evidence found in phone records (texting), e-mails, and/or social media (Facebook, Snapchat, etc.) should also be preserved.

- Even after the immediate crisis has passed, contact confidential on campus and/or off campus resources—for emotional support, information, and/or advocacy.
- Report the conduct to the Title IX Coordinator at (507) 344-7745 (titleIX@blc.edu). The Title IX Coordinator can arrange for interim measures and accommodations, including no contact orders. The Title IX Coordinator can provide information to students who wish to obtain protective or restraining orders with local authorities.
- File criminal charges with the local Police Department, if desired. Designated staff members will help the employee or student in reporting the assault to the police and/or in filing a criminal charge. Designated staff members will also accompany the complainant to the police station upon request.
- The College will assist the employee or student, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with the incident, and in preserving any materials relevant to a College disciplinary proceeding, regardless of whether the employee or student files a formal complaint with the College.

Emergency Contacts

24-Hour Emergency – Local law enforcement: **911**
Campus Security: (507) 344-7888

On Campus Resources

On Campus Places to Report Sexual Misconduct

The College encourages anyone who has experienced or knows of Sexual Misconduct to report the incident to the College by contacting the following:

- Ted Manthe, V.P. Student Affairs
Title IX Coordinator
Bethany Lutheran College
700 Luther Drive
Mankato, MN 56001
Phone: (504) 344-7745
Email: titleix@blc.edu
- Campus Security
Phone: (507) 344-7888
Email: securitydirector@blc.edu

Bethany Lutheran College Sexual Misconduct Policy

- Joshua Pederson, Manager of Human Resources
Phone: (507) 344-7840
email: joshua.pederson@blc.edu
- Renee Tatge, Registrar
Phone: (507) 344-7310
email: renee.tatge@blc.edu
- [Online Reporting Form](https://forms.blc.edu/title-ix-reporting/)
<https://forms.blc.edu/title-ix-reporting/>

On-Campus Confidential Resources

A person who speaks to a confidential resource should understand that if the person does not report the concern to the College, the College will be unable to provide certain interim actions or protective measures, conduct an investigation into the particular incident, or pursue disciplinary action. Individuals who first speak with a confidential resource and do not report the concern to the College may later decide to file a complaint with the College or report the incident to local law enforcement.

Don Moldstad*
Director of Spiritual Life/Chaplain
111 Trinity Chapel
donm@blc.edu
Office: (507) 344-7312
Cell: (507) 387-5456

Doyle Holbird*
Professor, Biology
208 Meyer Hall
dholbird@blc.edu
Office: (507) 344-7753

*The above confidential resources serve in multiple roles on campus. If you are seeking assistance from one of the confidential resources in their role as a confidential resource, you should contact them through the office contact information listed above and should make clear prior to disclosing any information that you are seeking their assistance as a confidential resource. Students should know that professors cannot serve as a confidential resource for students who they are currently teaching, and if they receive information in the course of their duties other than in a spiritual capacity, they may be required to report it.

Mental Health Counseling: The College maintains an on campus Personal Counseling Center staffed by CFS – Christian Family Solutions counselors. Students and employees can request an appointment with a CFS counselor by calling 1-800-438-1772 or on-line at <https://appointment.christianfamilysolutions.org/request-appointment>.

Student Health Services: The on-campus Express Care Clinic operated by Mayo Clinic Health System is staffed Monday –Friday from 7:45 AM – 9:45 AM when classes are in session. Students may walk-in for a no-charge appointment. The Express Care Clinic is located in the lower level of Luther Hall.

Bethany Lutheran College Sexual Misconduct Policy

Off Campus Resources

Off Campus Places to Report Sexual Misconduct

- For emergencies, call 911
Mankato Police Department, non-emergency line (507) 387-8780
- CADA, an off campus victim service agency
(800) 477-0466 or (507) 625-3966
24 hours a day/7 days a week
- *RAINN (Rape, Assault, and Incest National Network)*
<https://www.rainn.org/>
(800) 656-HOPE
24-hour hotline; free and confidential

Off Campus Confidential Resources, Counseling, and Support:

- Christian Family Solutions, the on-campus counseling services, also maintains offices off-campus clinic for students who may want to meet there. Students and employees can request an appointment with a CFS counselor by calling 1-800-438-1772 or on-line at <https://appointment.christianfamilysolutions.org/request-appointment>.

Christian Family Solutions – Mankato Location
Counseling Care & Services
44 Good Counsel Drive
Mankato, MN 56001

- Blue Earth County Mental Health Center (507) 389-8319
- Minnesota Crisis Connection (866) 379-6363
- *Sexual Assault Response Team* (507) 385-4745
- *SAFELINE* 1-800-630-1425

Health Care Options

Mankato Clinic Urgent Care
1230 East Main Street, Mankato, MN 56001
(507) 625-7684
Monday-Friday: 8 a.m. - 8 p.m.
Saturday: 8 a.m. - 5 p.m.
Sunday: 11 a.m. - 5 p.m.

Bethany Lutheran College Sexual Misconduct Policy

Mayo Clinic Health System (Emergency Room)
1025 Marsh Street, Mankato, MN 56001
(507) 625-4031 OR (800) 327-3721

Sexual Assault Response Team: (507) 385-4745

Sexual Assault Nurse Examiners (SANEs) perform a special exam and collect evidence in a “rape kit.” There is no charge for the SANE exam.

You can have a SANE exam within 120 hours after the rape or Sexual Assault. The purpose of the SANE exam is to collect forensic evidence, receive preventative health care, and see if you have any physical injuries that need tending. The exam will take place at the Sexual Assault exam site, in a confidential room with trained staff and volunteers. During the exam, the SANE will collect evidence such as your clothing, DNA swabs, etc. Prior to the exam, preserve all evidence and do not shower, bathe, change clothes, douche, brush teeth, drink or eat, or throw away any clothing until police or medical personnel say it is okay. If you have done any of the above, it is still possible to do an exam, but it is not as effective. So if possible, please try to avoid any of these actions. Completing a SANE exam does not require you to file a police report. But, it does help preserve evidence in case you decide to file a police report at a later date.

Victim Services and Legal Information and Assistance

Petition forms to apply for harassment restraining orders or to seek an order for protection are available at the Blue Earth County Justice Center, Court Administration Office, at 401 Carver Rd, Mankato, MN 56001. Forms are also available [online from the Minnesota Judicial Branch website](#). Forms must be submitted to the Court Administrator at the Blue Earth County Justice Center during business hours. Individuals seeking a harassment restraining order or an order for protection may obtain assistance from the Blue Earth County Justice Center, Court Administration Offices at 401 Carver Rd, Mankato, MN 56001.

Individuals seeking a harassment restraining order or an order for protection may seek assistance over the phone with the MN Courts Self-Help Center at (651) 259-3888.

The College maintains an on campus Personal Counseling Center staffed by CFS – Christian Family Solutions counselors. Students and employees can request an appointment with a CFS counselor by calling 1-800-438-1772 or on-line at <https://appointment.christianfamilysolutions.org/request-appointment>.

Off campus advocacy resources for both students and employees include:

- CADA, an off campus victim service agency
(800) 477-0466 or (507) 625-3966
24 hours a day/7 days a week

Bethany Lutheran College Sexual Misconduct Policy

- *RAINN (Rape, Assault, and Incest National Network)*
<https://www.rainn.org/>
(800) 656-HOPE
24-hour hotline; free and confidential

For more information and assistance, individuals should contact the Title IX Coordinator at (504) 344-7745 or titleix@blc.edu.

Other Support Resources

Visa and Immigration Assistance

- BLC International Student Coordinator
Office: Luther Hall Suite 207
Phone: (507) 344.7346
- US Citizenship and Immigration Services
2901 Metro Drive
Suite 100
Bloomington, MN 55425

Student Financial Aid

- Director of Financial Aid
Office: Old Main 228
Phone: (507) 344.7328

Academic Resource Center & Disabilities Services

- Academic Resource Center Coordinator
Office: Luther Hall 202
Phone: (507) 344.7730