

**MARTIN LUTHER COLLEGE POLICY PROHIBITING UNLAWFUL
SEX-BASED DISCRIMINATION, HARASSMENT & RETALIATION**

August 1, 2024

Forward

Within the scope of its Title IX-related policies and procedures, Martin Luther College does not restrict any rights guaranteed against government action by the U.S. Constitution, including those rights enunciated in the First and Fourth Amendments of the U.S. Constitution and the Due Process Clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution.

Martin Luther College will comply with Title IX regulations, policies and procedures irrespective of FERPA provisions to the contrary. Nothing in these regulations will be used to deny any individual's rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. or any regulations promulgated thereunder. Nothing in these regulations will deny any legal right of a parent or guardian to act on behalf of a "complainant," "respondent," "party," or other individual, including the ability to file a formal complaint.

If these regulations conflict with a State or local law applicable to Martin Luther College, Title IX regulations pre-empt that law to the extent of the conflict, and the college will follow them accordingly.

Applicable Federal Law

This policy addresses the requirements of Title IX of the Education Amendments of 1972 ("Title IX"), which is a federal law that prohibits sex-based discrimination in federally funded education programs and activities. Title IX states as follows:

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.

Nondiscrimination Policy Statement

Martin Luther College does not discriminate on the basis of sex and prohibits sex-based discrimination in any education program or activity that it operates, as required by Title IX, including admission and employment. Please note that Martin Luther College operates under a

religious exemption authorized under the Title IX regulations, exempting Martin Luther College from those regulatory requirements that conflict with the religious confessions and convictions held by Martin Luther College and by the Wisconsin Evangelical Lutheran Synod, the church body which owns and operates Martin Luther College. Further definition/information is appended to this policy.

Notice of Nondiscrimination

The 2024 amendments to the Title IX regulations require each recipient school to prominently include all elements of its notice of nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to people entitled to notice, or which are otherwise used in connection with the recruitment of students or employees.

Here is Martin Luther College's notice of nondiscrimination:

Martin Luther College does not discriminate on the basis of sex and prohibits sex-based discrimination in any education program or activity that it operates, as required by Title IX, including admission and employment. Please note that Martin Luther College operates under a religious exemption authorized under the Title IX regulations, exempting Martin Luther College from those regulatory requirements that conflict with the religious confessions and convictions held by Martin Luther College and by the Wisconsin Evangelical Lutheran Synod, which owns and operates Martin Luther College.

Inquiries about Title IX may be referred to Martin Luther College's Title IX coordinator, the U. S. Department of Education's Office For Civil Rights (Telephone: 800-421-3481 FAX: 202-453-6012; Email: OCR@ed.gov), or both. Martin Luther College's Title IX coordinator is Vice President for Student Life Jeffrey Schone, Wittenberg Collegiate Center office 110, schonej@mlc-wels.edu, 507-354-8221, ext. 289.

Martin Luther College's Nondiscrimination policy and grievance procedures can be located at

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to (mlc-wels.edu/student-life/wp-content/uploads/sites/22/2024/08/2024-MLC-TITLE-IX-Policy.pdf)

B. Scope of Policy

The College will apply this Policy to address all concerns relating to unlawful sex-based Sex-based Discrimination, Harassment and Retaliation. The Policy also prohibits Retaliation against anyone who Reports sex-based Discrimination, Harassment or Retaliation, makes a Complaint of such, assists, or participates or refuses to participate in any manner in a Complaint Resolution Process or other Investigation or proceeding pursuant to this Policy.

This Policy applies to incidents of unlawful sex-based Sex-based Discrimination, Harassment and Retaliation that occur in any Martin Luther's education program and activity (including curricular and co-curricular programs) and employment programs. The Policy applies to activities occurring on campus and in College-sponsored programs held in locations away from campus (including study away and study abroad programs), and other social functions or events sponsored by Martin Luther and held at other locations. This Policy also applies to any off-campus conduct, including conduct outside the United States, that interferes with the right of any Students, Employees or any other individual to participate or attempt to participate in a Martin Luther educational program or activity.

Two Complaint Resolution Processes are described in this policy.

- One process will be used to resolve all Complaints of sex-based Sex-based Discrimination, Harassment and Retaliation that DO NOT allege sex-Based Harassment when the matter involves a Martin Luther Student (either a Student is bringing allegations of Sex-Based Harassment, accused of Sex-Based Harassment or both).
- The second process will be used to resolve all Complaints of sex-based Sex-based Discrimination, Harassment and Retaliation that DO allege sex-Based Harassment when the matter involves a Martin Luther Student (either a Student is bringing allegations of Sex-Based Harassment, accused of Sex-Based Harassment or both).
- The second Complaint Resolution Process mentioned above will be used to resolve Complaints of Sex-Based Harassment involving a Martin Luther Student (including Complaints of Sexual Assault and other forms of Sexual Misconduct, Dating Violence, Domestic Violence and Stalking). To minimize the burden on the Parties, witnesses and the College, if a Sex-Based Harassment Complaint involving a Student also includes allegations of other violations of this Policy (such as Retaliation, other forms of Sex Discrimination that are not allegations of Sex-Based Harassment) then the Complaint Resolution Process described may be used for resolving all of the allegations contained in the Complaint.

II. KEY INTERNAL AND EXTERNAL RESOURCES

A. Martin Luther Responsible Administrative Staff

Title IX Coordinator

The Title IX Coordinator is responsible for coordinating all aspects of the College's sex-based Sex-based Discrimination, Harassment and Retaliation compliance efforts. The Title IX Coordinator is knowledgeable and trained in Martin Luther's policies and procedures, as well as the College's legal obligations under state and federal laws including Title IX, the Violence Against Women Act, and the Minnesota Campus Sex-Based Harassment and Violence law. The Title IX Coordinator may delegate responsibilities and duties to deputies and other trained individuals to better serve the students, faculty, and staff of Martin Luther College and other individuals seeking to participate in its education program and activities.

The Title IX Coordinator's responsibilities include:

- Ensuring the College’s compliance with all administrative requirements of Title IX, and other applicable state and federal laws;
- Advising individuals about Martin Luther’s Policy and Reporting options;
- Providing assistance to Employees of the College about how to respond to Reports of unlawful Sex-based Discrimination, Harassment and Retaliation;
- Coordinating the College’s response to all Complaints alleging sex-based Discrimination, Harassment or Retaliation;
- Ensuring on- and off-campus support resources are made available to individuals who Report sex-based Discrimination, Harassment or Retaliation, including individuals participating in the College’s Complaint Resolution Process;
- Ensuring that pregnancy and related conditions are lawfully accommodated for prospective and current Students and Employees;
- Identifying and removing barriers to Reporting Sex-based Discrimination, Harassment and Retaliation; and
- Overseeing training, prevention and education efforts, and periodic reviews of the campus climate and culture in regard to sex-based Discrimination, Harassment and Retaliation.

The Title IX Coordinator is also responsible for:

- Conducting an initial assessment of Reports to determine whether alleged conduct falls within the scope of this Policy;
- Assessing whether a Complaint should be dismissed and/or referred to a different College process;
- Evaluating whether and how the College will proceed under this Policy in a manner that provides a prompt, thorough, fair and equitable process for the individuals involved;
- Overseeing intake and Supportive Measures for individuals who Report sex-based Discrimination, Harassment or Retaliation;
- Confirming that Supportive Measures have been offered to all Parties involved in a Report and/or Complaint Resolution Process under this Policy;
- Evaluating Supportive Measures for their effectiveness in restoring Parties’ equal access to the ability to participate in or benefit from the College’s educational programs and activities;
- Determining whether a matter is appropriate to proceed under an Informal Resolution Process if the Parties express interest in doing so;
- Overseeing matters proceeding under the Policy’s Complaint Resolution Processes to ensure adherence to the Policy in a manner that is prompt, thorough, fair and equitable;
- Determining whether notification to the Martin Luther community is necessary to comply with Clery Act or other legal obligations; and
- Coordinating and overseeing data collection and Reporting in compliance with relevant federal and state statutes.

B. Governmental Authorities

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

U.S. Department of Education / Office for Civil Rights
 Citigroup Center
 500 W. Madison Street, Suite 1475
 Chicago, IL 60661-4544
 312-730-1560 (phone)

877-521-2172 (TDD)
Email: OCR.Chicago@ed.gov

Minnesota Department of Human Rights
Freeman Building
625 Robert Street North
Saint Paul, MN 55155
800-657-3704 (phone)
800-627-3529 (fax)
800-627-3529 (TDD)
<http://mn.gov/mdhr/>
Info.MDHR@state.mn.us

III. DEFINITIONS

A. General Policy Definitions

Confidential Resources

are individuals who can receive confidential communications, defined as communications which cannot be disclosed to another person without the authorization of the individual who provided the information, unless legally authorized or required, such as when the communications involve allegations of the physical or sexual abuse of a child or vulnerable adult, or an imminent threat of serious injury to any person. Among the College's Employees, only those individuals designated by the College as Confidential Resources may receive such confidential communications without being required to Report the information they receive to the Title IX Coordinator. Martin Luther has designated 4 individuals to serve as Confidential Resources:

- Kelsey Horn, RN – MLC Heath Services
- Angela Scharf – Women's Services Director
- Pastor Nathan Savage – Tutor and Dorm Supervisor
- Pastor Aaron Bush – Tutor and Dorm Supervisor

Discrimination

means an adverse or unequal treatment that unreasonably denies, unreasonably limits, or materially interferes with an individual's ability to participate in or benefit from College programs or activities.

- For an Employee or applicant for employment, prohibited Discrimination would include adverse action that interferes with an individual's hiring, promotion, job duties, or other terms and conditions of employment.
- For a Student or prospective Student, prohibited Discrimination would include any action that interferes with the Student's access to or benefits from educational programs or activities such as admission into programs or activities, grades, assignments and coursework, housing, participation on a team, program or activity, or other adverse actions.
- Discrimination against volunteers, guests, visitors and any other participants in College programs or activities is also prohibited when it is sex-based.

Employee,

for the purposes of this Policy, means a non-Student Martin Luther College Employee, including faculty and staff. Students who work for the College for work-study purposes or on a part-time basis for any other reason are not considered an Employee for purposes of this Policy. An Employee who takes classes under a College benefit program is considered an Employee, and not a Student, for purposes of this Policy.

Harassment

means unwelcome sex-based conduct that is so severe or pervasive that it interferes with an individual's participation in a College program or activity. Harassment includes verbal, physical, electronic, or other conduct directed at an individual that substantially interferes with the individual's participation in a College program or activity, including a Student's educational environment and a staff or faculty member's work environment.

a. Quid Pro Quo Harassment – When submission to or rejection of sex-based harassing behavior is used, explicitly or implicitly, as the basis for decisions affecting an individual's participation in a College program or activity (including a Student's educational opportunities or a staff or faculty member's work), this is one form of prohibited sex-based Harassment, commonly referred to as "Quid Pro Quo" Harassment.

b. Hostile Environment Harassment – Another form of prohibited sex-based Harassment is often referred to as "hostile environment" Harassment. This type of Harassment involves unwelcome sex-based conduct severe or pervasive enough to substantially interfere with the individual's participation in or benefit from a College program or activity. For Students, a hostile environment would substantially interfere with their ability to learn, or participate and benefit from other aspects of their educational program and activities. For faculty or staff members, a hostile environment would substantially interfere with their work environment.

Parental Status

means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: (1) A biological parent; (2) An adoptive parent; (3) A foster parent; (4) A stepparent; (5) A legal custodian or guardian; (6) In loco parentis with respect to such a person; or (7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

Pregnancy or Related Conditions

means: (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Report

means information forwarded to the Title IX Coordinator alleging Sex Discrimination or Sex-Based Harassment. In most cases a Report does not initiate any action by the College beyond providing the individual alleged to have experienced harassment or discrimination with information about Supportive Measures and other resources and options for response if the individual so chooses. A Report is distinguished from a Complaint which initiates the College's Complaint Resolution Process.

Retaliation

means intimidation, threats, coercion, or Discrimination against any person by the College, a Student, or an Employee or other person authorized by the College to provide aid, benefit, or

service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by this Policy, or because the person has Reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an Investigation or a proceeding under this Policy, including in the Informal Resolution Process, the Complaint Resolution Process, and in any other actions taken by the College under this Policy. Notwithstanding the foregoing, it is not prohibited Retaliation for Martin Luther to expect and require Employees or other persons retained by the College to provide aid, benefit, or service under the College's education program or activity to participate as a witness in, or otherwise assist with, an Investigation or proceeding under this Policy.

Required Referrals

are Employees who are not Confidential Resources and who are expected to immediately share all known details about any incident of sex-based Discrimination, Harassment or Retaliation with the Title IX Coordinator. Students who are employed with the College are also Required Referrals if they learn about an incident of sex-based Discrimination, Harassment or Retaliation as a result of their employment position.

Student

means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing educational relationship with Martin Luther College.

Supportive Measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Reporting Party before or after the filing of a Complaint and to a Respondent if and when notified of a Complaint. Such measures are designed to provide support to each Party and to restore or preserve equal access to the College's education program or activity. Supportive Measures may include measures designed to protect the safety of each Party and the College's educational environment. Supportive Measures may not unreasonably burden a Reporting Party or Respondent.

B. Complaint Resolution Process Definitions

Advisor means a person selected by a Reporting Party or Respondent to assist that Party during a Complaint Resolution Process. An Advisor may accompany the Party to all meetings during the Complaint Resolution Process. The Advisor may also accompany the Party to all meetings conducted under an Informal Resolution Process. The Advisor may not communicate directly with process facilitators, Investigators, adjudicators or other College personnel involved in administering this Policy; however an Advisor may assist a Party with preparing statements, communications and other materials during the Complaint Resolution Process.

Adjudication means the phase of the Complaint Resolution Process where a trained Adjudicator imposes Disciplinary Sanctions and Remedies after a Respondent is found by the Investigator to have committed Discrimination, Harassment or Retaliation.

Adjudicator means a trained individual assigned by the Title IX Coordinator to reviewing all relevant and not otherwise impermissible evidence, receive questions each Party wants asked of the other party or witnesses, rule on the permissibility of questions submitted, allow for the reformulation and resubmission of questions, hold a live hearing during which the Adjudicator asks question (including those submitted by the Parties), and determines whether it is more likely than not that the Respondent is responsible for violating the Policy prohibiting sex-based

Discrimination, Harassment or Retaliation. If the Adjudicator finds that the Respondent is responsible for sex-based Discrimination, Harassment or Retaliation the Adjudicator assigned by the Title IX Coordinator will determine Disciplinary Sanctions and Remedies

Appeal Adjudicator

means the trained adjudicator assigned by the Title IX Coordinator to determine any appeals following the Investigation and Adjudication phases of the Complaint Resolution Process. The appeal phase is the final phase of the Complaint Resolution Process.

Complaint

means an oral or written request to the College that objectively can be understood as a request for the College to initiate a Complaint Resolution Process to investigate and determine whether sex-based Discrimination, Harassment or Retaliation prohibited by this Policy has occurred. A Report is not the same as a complaint. Only the individual who has allegedly been subjected to sex-based Discrimination, Harassment or Retaliation can initiate a complaint.

Complaint Resolution Process

means the process used by the College to investigate, adjudicate and respond to Complaints of sex-based Discrimination, Harassment or Retaliation. The initiation of a Complaint is the first phase of the Complaint Resolution Process.

Disciplinary Sanctions

means consequences imposed on a Respondent following a determination that the Respondent violated this Policy’s prohibition on sex-based Discrimination, Harassment or Retaliation. Disciplinary Sanctions are imposed following an Investigation during the Adjudication Phase of the Complaint Resolution Process.

Dismissal

refers to a review of the Complaint that the Title IX Coordinator performs to determine whether the Complaint should proceed under the Complaint Resolution Process, or be dismissed or referred to a different College office.

Informal Resolution Process

means the voluntary, structured dialogue between each Party and a trained facilitator intended to attempt to resolve allegations of Discrimination, Harassment and/or Retaliation apart from a heightened Complaint Resolution Process. The Informal Resolution Process is intended to be flexible while providing for a full range of possible outcomes through dialogue with the facilitator. In certain circumstances Informal Resolution is not legally permissible. When each Party has expressed interest in the Informal Resolution Process, the Title IX Coordinator will determine whether Informal Resolution is appropriate for the particular matter. When permissible, the Informal Resolution Process can be utilized at any point prior to the conclusion of the Complaint Resolution Process.

Investigation

means the phase of the Complaint Resolution Process where evidence is gathered by a trained Investigator and the Parties have an equal opportunity to offer fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.

Investigator

means a trained individual assigned by the Title IX Coordinator to conduct a fair and impartial Investigation and, after gathering and reviewing all relevant and not otherwise impermissible evidence, write an investigative report summarizing all of the relevant evidence.

Notice of Allegations

means a document the Title IX Coordinator prepares after a Complaint is brought to apprise the Parties of information about the allegations, the Complaint Resolution Process and the Parties' rights

Notice of Determination

means the document that the Adjudicator prepares following the Investigation and Adjudication of the Complaint to notify the Parties whether the Adjudicator concluded that it is more likely than not that sex-based Discrimination, Harassment or Retaliation occurred. In cases where the Adjudicator has determined that a preponderance of evidence supports a finding that the Respondent committed sex-based Discrimination, Harassment or Retaliation, the Notice of Determination will also include the Disciplinary Sanctions and Remedies imposed by the Adjudicator.

Party

means a Reporting Party or Respondent.

Relevant means related to the allegations of sex-based Discrimination, Harassment or Retaliation under Investigation as part of the Complaint Resolution Process applicable under this Policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex-based Discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex-based Discrimination, Harassment or Retaliation occurred.

Remedies

means measures provided, as appropriate, to a Reporting Party or any other person identified as having had their equal access to the College's education program or activity limited or denied by sex-based Discrimination, Harassment or Retaliation. These measures are provided to restore or preserve that person's access to the College's education program or activity after a Complaint Resolution Process has resulted in a determination that sex-based Discrimination, Harassment or Retaliation occurred. Remedies are identified following an Investigation during the Adjudication Phase of the Complaint Resolution Process.

Reporting Party means

- a. A Student or Employee who is alleged to have been subjected to conduct that could constitute sex-based Discrimination, Harassment or Retaliation prohibited by this Policy; or
- b. A person other than a Student or Employee who is alleged to have been subjected to conduct that could constitute sex-based Discrimination, Harassment or Retaliation under this Policy and who was participating or attempting to participate in a Martin Luther education program or activity at the time of the alleged prohibited conduct.
- c. A Reporting Party who initiates a complaint may be referred to as the Complainant.

Respondent

means a person who is alleged to have violated this Policy's prohibitions against unlawful sex-based Discrimination, Harassment or Retaliation.

C. Sex Discrimination and Sex-based Harassment Definitions

Coercion or Force

means conduct, intimidation, and expressed or implied threats of physical or emotional harm that would reasonably place an individual in fear of immediate or future harm and that are used in order to persuade or compel someone to engage in sexual contact. Any sexual contact occurring in response to coercion or force will be presumed non-consensual. Examples of coercion or force include causing the deliberate incapacitation of another person; conditioning an academic benefit or employment advantage on submission to the sexual contact; threatening to harm oneself if the other Party does not engage in sexual contact; or threatening to disclose an individual's personally sensitive information if the other Party does not engage in the sexual contact.

Consent

First, a biblical note: Consent is a government/legal term which is applied to sexual activity between individuals. The government allows adults to engage in sexual activity as long as those individuals mutually consent to said activity. God tells us something different in his word. To begin with God created human beings as male and female, as sexual beings, for the purpose of marriage. And God has provided the sexual relationship in marriage as a great gift to husbands and wives. Sexual activity outside of marriage is sinful and harmful. God also directs husbands and wives to carry on their sexual relationship in tenderness, love, and respect. Certainly the idea of mutual consent falls within this direction of God. Nevertheless, sexual activity outside of marriage – even in the context of mutual consent – is sinful and forbidden by God. For the purposes of this policy, however, we include the government's definition of consent.

According to the law, consent means words or overt actions by a person clearly and affirmatively communicating a freely-given, present agreement to engage in a particular form of sexual contact. Words or overt actions clearly communicate Consent when a reasonable person in the circumstances would believe those words or actions indicate an interest and willingness to participate in the mutually agreed-upon sexual contact. Although Consent does not need to be verbal, verbal communication is the most reliable form of asking for and obtaining Consent.

All Parties to a particular form of sexual contact must provide Consent, and such Consent must be present throughout the activity. It is the responsibility of the individual who is initiating each sexual contact to obtain Consent before proceeding to engage in the sexual contact.

Even when Consent is given, it may be retracted at any time. When Consent is withdrawn, the sexual contact for which Consent was initially provided must stop immediately. Any words or overt actions can communicate withdrawal of Consent. As is the case with communicating the existence of Consent, verbal communication is usually the clearest way of communicating withdrawal of Consent.

A person can only provide Consent when that person:

- Acts freely and voluntarily, without coercion or force or otherwise feeling unduly pressured, threatened, or intimidated;
- Is informed about the nature of the sexual contact involved;
- Is not incapacitated, whether from alcohol, other drugs, or other causes, such that they cannot understand the fact, nature, or extent of the sexual contact;
- Is conscious;
- Is of legal age to Consent (16 years old in Minnesota with some exceptions for younger individuals who are close in age).

- These requirements for Consent mean that sexual contact with someone who is threatened, coerced, intimidated, uninformed, incapacitated, asleep or otherwise unconscious, or not of legal age, is, by definition, nonconsensual sexual contact.

In addition, Consent to a particular sexual contact cannot be inferred from: Consent to a different form of sexual contact; an existing or prior dating, sexual, romantic or marital relationship; silence that is not otherwise accompanied by overt actions indicating Consent; an absence of physical resistance or verbal protest; or prior sexual activity with other individuals.

In some instances, because of a person's power/authority, or the perception thereof, one individual may not be able to give consent to a given sexual encounter. For example, one individual who supervises another may not be able to obtain consent in an intimate encounter because the other person fears they might lose their job or status if they object to some or all aspects of the encounter. Power and authority may arise from a variety of areas including one's size, strength or reputation within the College.

Incapacitation

means an individual's physical and/or mental inability to make informed, rational judgments that is known or reasonably should have been known to the individual initiating sexual contact. An individual who is incapacitated is unable to give Consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to Consent to sexual contact. Regardless of their own level of intoxication, individuals who are initiating sexual contact are always responsible for obtaining Consent before proceeding. Intoxication is never an excuse for or a defense to committing sexual assault or any other Sex-Based Harassment. Use of drugs or alcohol does not diminish one's responsibility to obtain Consent or reduce one's personal accountability. The issue is whether the individual initiating sexual contact knew, or a reasonable sober person in the position of the individual initiating sexual contact should have known, that the other person was incapacitated.

Alcohol or drug use is a common cause of incapacitation. The mere use of drugs or alcohol, or even intoxication from drugs or alcohol, is not by itself proof of incapacitation. Where alcohol or drug use is involved, incapacitation is a state beyond intoxication, impairment in judgment, or drunkenness. Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is incapacitated, and therefore unable to give Consent, requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of: making decisions about the potential consequences of sexual contact; appraising the nature of one's own conduct; or ability to communicate Consent or lack of Consent to engage in sexual contact.

There are common signs that should alert a reasonable sober person as to whether an individual might be incapacitated. Typical signs may include incomprehensible speech, clumsiness, difficulty walking, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: "Do you know where you are?" "Do you know how you got here?" "Do you know what is happening?" "Do you know who I am?" If there is any doubt as to the level or extent of one's own or the other individual's intoxication or incapacitation, the safest course of action is to forgo or cease any sexual contact or activity.

Sex-based Discrimination

occurs when an individual is treated adversely because of that person's sex/gender. Sex-based Discrimination includes Discrimination on the basis of sex stereotypes, sex characteristics, and Pregnancy or Related Conditions. Some examples of conduct that may constitute Sex Discrimination include:

- Treating an individual adversely in any respect because of their sex/gender.
- Using epithets or slurs;
- Engaging in threatening or intimidating acts, including directing written or graphic material to an individual because of their sex/gender;
- Written, verbal or physical acts directed to an individual because of their sex/gender that purport to be jokes or pranks.

Sex-Based Harassment

is a form of Harassment prohibited by this Policy. Sex-Based Harassment means Sex-Based Harassment and other Harassment on the basis of sex that is one of the following:

- a. **Quid pro quo Sex-Based Harassment.** An Employee, agent, or other person authorized by the College to provide an aid, benefit, or service under the College's education program or activity conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct; or
- b. **Hostile environment Sex-Based 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 College'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 consideration of the following:
 - (a) the degree to which the conduct affected the Reporting Party's ability to access the College's education program or activity;
 - (b) the type, frequency, and duration of the conduct;
 - (c) the Parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct;
 - (d) the location of the conduct and the context in which the conduct occurred; and
 - (e) other Sex-Based Harassment in the recipient's education program or activity.

6. Sexual Misconduct

means criminal sexual behavior including any of the following:

- a. **Sexual Assault** means an offense classified as a forcible or nonforcible sex offense under the uniform crime Reporting system of the Federal Bureau of Investigation. This includes the following crimes:
 - i. **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the victim.
 - ii. **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of their age or because of their temporary or permanent mental incapacity.
 - iii. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

iv. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of Consent.

b. **Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on a consideration of the following factors:

- The length of the relationship;
- The type of relationship; and
- The frequency of interaction between the persons involved in the relationship.

c. **Domestic Violence** means felony or misdemeanor crimes committed by a person who:

- Is a current or former spouse or intimate partner of the victim under Minnesota law, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or Domestic Violence laws of the jurisdiction.

d. **Intimate Partner Violence** means any physical or sexual harm or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior against an individual, that may be classified as a sexual misconduct, dating violence, or domestic violence caused by:

- a current or former spouse of the individual; or
- a person in a sexual or romantic relationship with the individual.

e. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. Examples of stalking behavior can include:

- Repeated, unwanted, intrusive, or frightening communications by phone, mail, text, email and/or social media;
- Repeatedly leaving or sending unwanted items or gifts;
- Following or lying in wait for a person at places such as the person's place of residence, school activities, work, or recreational places;
- Making direct or indirect threats to harm a person or a person's relatives, friends, or pets;
- Damaging or threatening to damage a person's property;
- Excessive posting of information or spreading rumors about a person on the internet, in a public place, or by word of mouth; or
- Unreasonably obtaining personal information about a person for no legitimate purposes.

f. **Sexual Exploitation** is taking non-consensual sexual advantage of another person. Examples of sexual exploitation include, but are not limited to:

- Threatening to disclose an individual's personal and private or perhaps embarrassing information.
- Sexual extortion;
- Observing another individual's nudity or sexual contact, or allowing another to observe the same, without the knowledge and Consent of all Parties involved;

- Non-consensual recording or dissemination of images, photography, video, or audio recording of sexual contact or nudity;
- Creating and/or disseminating “deep fake” sexual images depicting intimate parts or sexual acts;
- Voyeurism;
- Creation, possession or dissemination of child pornography;
- Sex trafficking;
- Misleading or lying about use of contraception;
- Distributing intimate or sexual information about a person without Consent;
- Knowingly exposing or transmitting a sexually transmitted infection to another person; and
- Inducing incapacitation for the purpose of taking sexual advantage of another person.

g. **Sexual Intimidation** involves threatening another person that the perpetrator will commit a sex act against them or engaging in indecent exposure

7. Sexual contact

is defined as the intentional touching by an individual of another’s intimate parts (including an individual’s breasts, inner thighs, buttocks, genitals and/or groin area, whether clothed or unclothed); or the coerced touching by an individual of another’s intimate parts. Sexual contact also includes the intentional removal or attempted removal of clothing covering an individual’s intimate parts.

IV. REPORTING SEX-BASED DISCRIMINATION, HARASSMENT AND RETALIATION

A. Overview

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

B. Who Can Report? Who Must Report?

1. **Employees / Required Referrals**

Employees of Martin Luther College who are not Confidential Resources are Required Referrals, and are expected to immediately share all known details about any incident of sex-based Discrimination, Harassment or Retaliation with the Title IX Coordinator. Students who are employed with the College, and who learn about such incidents during the course and scope of their College employment are also Required Referrals. Reports may be made in person, by telephone, or electronically. If possible, before obtaining information from a Reporting Party, Required Referrals should inform the Reporting Party of the Employee’s Reporting obligations and inquire whether the Reporting Party would rather speak with a

Confidential Resource.

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

2. Students

Students are encouraged to Report known or suspected incidents of Sex-based Discrimination, Harassment and Retaliation to the Title IX Coordinator. Students are not required to Report information unless they are also a Required Referral (i.e., Student employees who learn about sex-based Discrimination, Harassment or Retaliation during the course and scope of their employment with the College).

C. What Must be Reported?

1. Reporting Sex-based Discrimination, Harassment or Retaliation

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

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

2. Reporting Responsibilities Regarding Pregnant Students

When a Student informs any Employee of the Student's Pregnancy or Related Condition, the Employee must provide the Student with the Title IX Coordinator's contact information and inform the Student that, as the College's Title IX Coordinator, the Title IX Coordinator can coordinate support and modifications to ensure that the Student maintains equal access to the College's education program and activities, unless the Employee reasonably believes the Title IX Coordinator has already been notified. To ensure that an appropriate response is made, Employees who learn about a Student's Pregnancy or Related Condition are encouraged to contact the Title IX Coordinator for information and guidance. Employees who do so are not required to identify the Student with the Pregnancy or Related Condition.

D. To Whom May Reports be Directed?

1. Confidential Resources.

Individuals who have experienced Discrimination, Harassment or Retaliation may obtain support and other resources from Confidential Resources. Confidential Resources can also provide basic information about College, community, and, when applicable, law enforcement options.

At Martin Luther, Confidential Resources include the following:

- Kelsey Horn, RN – MLC Health Services
- Angela Scharf – Women’s Services Director
- Pastor Nathan Savage – Tutor and Dorm Supervisor
- Pastor Aaron Bush – Tutor and Dorm Supervisor

2. Reporting to the Title IX Coordinator

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

Even if Reporting Parties are not interested in or uncertain about initiating the Complaint Resolution Process, they are strongly encouraged to Report to the Title IX Coordinator so that they can better understand and readily access the Supportive Measures and other options available to them under this Policy. Reporting to the Title IX Coordinator does not obligate the Reporting Party to initiate or participate in a Complaint Resolution Process. The College will honor an individual’s preferences about whether to proceed with the Complaint Resolution Process, and will only take additional measures in the rare instances when the College believes further action is legally required or absolutely necessary for safety purposes. Resources and Supportive Measures are available regardless of whether a Complaint Resolution Process is initiated.

3. Reporting to Faculty and Staff

All Employees of the College, with the exception of Confidential Resources, are Required Referrals and responsible for making Reports to the Title IX Coordinator of all known or suspected sex-based Discrimination, Harassment or Retaliation.

4. Anonymous Reporting

The College maintains an online Reporting form for any member of the Martin Luther community to anonymously Report sex-based Discrimination, Harassment or Retaliation that the Reporter has either experienced or witnessed. The information provided is forwarded to the Title IX Coordinator. The Title IX Coordinator will act upon all information received to the extent there is actionable information provided. Reports are also utilized for Reporting purposes to state and federal authorities, and used by the College to better understand the incidence of Sex-based Discrimination, Harassment and Retaliation in our community and to aid in education, prevention, and response efforts.

The College’s ability to respond to an anonymous Report may be limited depending upon the information it receives. If a Reporting Party is identified in an anonymous Report, the Title IX Coordinator will contact the Reporting Party to offer information and Supportive Measures. Because a Complaint must be initiated by an individual who experienced the conduct

or by the Title IX Coordinator under certain circumstances, an anonymous Complaint will not necessarily trigger the Complaint Resolution Process.

5. Reporting to law enforcement

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

Meetings can normally be arranged on campus or at the New Ulm Police Department depending upon the wishes of the Reporting Party. In most instances, Reporting to the police does not require filing criminal charges, and the individual Reporting to the police maintains control over whether and when criminal charges will be pursued. If the Reporting Party would like an advocate, Advisor, or parent to attend the meeting with the New Ulm Police, assistance with these arrangements will also be made.

Telephone contact information for the New Ulm Police Department:

Emergency Number: 911

Non-Emergency Number: 507-233-6750

Individuals should not assume that information Reported to College authorities will be Reported to law enforcement. Legal guidelines preclude the College from Reporting incidents of sexual violence to law enforcement without the authorization of the Reporting Party (unless such Reporting is mandated under Minnesota's child or vulnerable adult abuse and neglect statutes). In instances where the police have been contacted about a matter involving sex-based Discrimination or Harassment that may also be crime, the College will cooperate with the New Ulm Police in obtaining, securing, and maintaining evidence.

Rights of Crime Victims in Minnesota

Minnesota law provides certain rights to individuals who Report crimes to law enforcement. These rights pertain to responsibilities of police and prosecutors when a crime is Reported. This is separate and apart from the process Martin Luther uses when a Report is made to the College. The following is a brief description of the rights guaranteed to individuals who Report crimes to law enforcement:

Notification. Individuals who Report crimes are entitled to notification of their rights including the following:

- The process for prosecuting crimes and the ability to participate in this process;
- The final results of a criminal Report (including whether the accused will be charged with a crime and prosecuted, any plea agreement reached with the accused, the outcome of a criminal trial, whether the decision at trial is being appealed, and the results of any appeal);
- The details of any plea agreement that may have been reached with the accused;
- The schedule for trial and any appeal hearings;
- Any changes sought to the sentence imposed against the offender and the right to provide input in these proceedings;

- Information regarding the offender's release or escape from custody or transfer to a lower security facility;
- Any petition by the offender for expungement of the offender's criminal records;
- The right of a victim of crime to request restitution and reparations; and
- Information on the nearby crime victim assistance resources.

Protection. Individuals who Report crimes are entitled to:

- A secure waiting area during any court proceedings;
- Request that their identity and personal information (including home and employment address, telephone number, and birth date) not be disclosed publicly or in open court;
- Protection against Retaliation by their employer for taking reasonable time off to testify, assist with the prosecution, and to attend court proceedings; and
- Protection from any Harassment, intimidation or other tampering with a witness.

Rights in Criminal Cases Involving Allegations of Domestic Violence, Sexual Assault, or Harassment. Individuals who Report crimes involving allegations of domestic violence, sexual assault or Harassment are entitled to:

- Be informed of the prosecutor's decision to decline prosecution or dismiss the case along with information about seeking a harassment restraining order at no fee;
- Protections against any Retaliation from an employer in response to taking reasonable time off to attend a court proceeding relating to a request for an order for protection or harassment restraining order;
- Terminate a lease without penalty;
- Make a confidential request for HIV testing of a convicted offender in cases of sexual assault;
- A medical forensic examination at no cost; and
- To have an Investigation and prosecution of a sexual assault case proceed without having to be subjected to a polygraph examination.

Other rights. Individuals who Report crimes are also entitled to:

- Request a speedy trial;
- Provide input in plea agreements and to object to a plea agreement, orally or in writing, before the court;
- Object orally or in writing to a proposed disposition or sentence;
- Inform the court, either orally or in writing, of the impact of the crime at the sentencing hearing; and be present at the sentencing and plea presentation hearings; and
- Be informed of any discharge or release of the offender from civil commitment and submit a statement regarding this decision.

For further information, consult the Crime Victims Bill of Rights, a publication of the Minnesota Department of Public Safety, or Minnesota Statute 611A.

E. How Can Reports be Submitted?

Martin Luther is committed to providing Reporting options through multiple avenues which are broadly accessible to all members of the Martin Luther community. Any person may Report sex-based Discrimination, Harassment or Retaliation (whether or not the person Reporting is the person alleged to be the victim of such conduct), in person, by mail, by telephone, or by email, to the Title IX Coordinator. Reports may be submitted at any time of day and at any point during the year.

Reports may be made by completing the College's on-line Reporting form which is automatically delivered to the Title IX Coordinator. Individuals can also contact the Title IX in person, by mail, telephone, or by email.

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

F. Prohibition Against False Reports

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

G. 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.

V. INITIAL STEPS AFTER A DISCRIMINATION, HARASSMENT OR RETALIATION REPORT IS RECEIVED BY THE COLLEGE

A. Initial Contact with Title IX Coordinator

After receiving notification of conduct that may reasonably constitute sex-based Discrimination, Harassment or Retaliation, the Title IX Coordinator will promptly contact the Reporting Party to explain the options for addressing a Report.

The Title IX Coordinator will confer with the Reporting Party in order to:

- Assess the Reporting Party's safety and well-being and identify available support and assistance;
- Inform the Reporting Party about resources available at the College and in the community, the right to seek appropriate and available remedial and Supportive Measures, and how to request them;
- Inform the Reporting Party of the right to initiate the College's Complaint Resolution Process and/or the Informal Resolution Process (when applicable);
- Explain the College's prohibition against Retaliation and that the College will take prompt action in response to any act of alleged Retaliation;

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

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

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

The Reporting Party has the right to decide whether to take any action to address the alleged conduct, whether to seek Supportive Measures, and whether to be involved in an Informal Resolution Process or a Complaint Resolution Process addressing the conduct. Under some circumstances, the Title IX Coordinator may determine that the College will initiate a Complaint and Complaint Resolution Process to address the sex-based Discrimination, Harassment or Retaliation even if the Reporting Party decides not to participate in the Complaint Resolution Process.

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

If an Informal Resolution Process, Complaint Resolution Process or other steps are being taken to address the concerns with a Respondent, the 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 Discrimination, Harassment or Retaliation, and throughout any Informal Resolution Process and Complaint Resolution Process, the Title IX Coordinator will treat the Reporting Party and Respondent equitably.

B. Availability of Supportive Measures

At any time after a Report of sex-based Discrimination, Harassment or Retaliation is received, the College will arrange for reasonable and appropriate Supportive Measures aimed at protecting the well-being and safety of each Party. Supportive Measures are actions taken to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other Party. They include measures designed to protect the safety of all Parties and the College's educational environment. Supportive Measures foster a comfortable and safe educational, residential and working environment.

Supportive Measures may be requested by a Reporting Party at any time after a Report is received, or by a Respondent at any time after being made aware of a Report. Supportive Measures may

also be initiated by the College. Supportive Measures are available regardless of whether a Report proceeds to the Complaint Resolution Process.

Appropriate Supportive Measures will vary depending upon the particular circumstances and based on a Party's confidentiality preferences. The range of potential Supportive Measures that Martin Luther may take include:

- Access to counseling, medical, and other confidential services and assistance in setting up initial appointments on and off campus.
- A College-imposed mutual "limited-contact directive" prohibiting intentional or on-going unintentional contact between individuals.
- Assistance in petitioning a court for an order for protection / harassment restraining order.
- Making information available about and providing assistance with respect to orders for protection and harassment restraining orders, including enforcement of such orders.
- Providing campus security escorts to assure safe movement on campus.
- Rescheduling of exams or assignments.
- Providing alternative course completion options.
- Providing other academic Supportive Measures, such as tutoring.
- Assisting in setting up potential accommodations (academic, employment or otherwise) through other relevant departments.
- Changing a Student's class schedule.
- Extensions of work deadlines, work schedules, assignments, and other workplace accommodations;
- Changing campus housing arrangements and assistance with housing relocation.
- Limiting access to certain College residence halls, facilities or activities pending a Complaint Resolution Process.
- Voluntary leave of absence.
- In cases where the Reporting Party is or becomes enrolled at a different educational institution either because of a transfer, on-going studies after graduation from Martin Luther, or temporary enrollment at a different institution, the College will provide information about resources available at the Student's current institution.
- Any other measure deemed appropriate for fostering a more comfortable and safe educational, residential and/or working environment.

Supportive Measures are offered by the College based upon the information gathered during the Report or made available to the College thereafter. They are not intended to be punitive. Such measures will vary based on the particular facts and circumstances, including but not limited to the specific need expressed by the Party, the age of the individual(s) involved, the severity or pervasiveness of the allegations, any continuing effects on the other Party, whether the Reporting Party and the Respondent share the same residence hall or assigned work location.

Supportive Measures may not unreasonably burden either Party. They will be designed to protect the safety of the Parties and the educational environment and to provide support during the Complaint and Complaint Resolution Process or Informal Resolution Process. Supportive Measures will not be imposed if they have the purpose or effect of being punitive or disciplinary. The Title IX Coordinator will maintain on-going contact with Parties and witnesses who have requested Supportive Measures. The Title IX Coordinator retains the discretion to initiate and/or modify any Supportive Measures based on all available information. A Party may challenge Supportive Measures, or failure to impose Supportive Measures or take other actions, by contacting the Title IX Coordinator to address any concerns.

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

C. Opportunity to Change or Challenge Supportive Measures

A Reporting Party or Respondent may contact the Title IX Coordinator to seek modification or termination of Supportive Measures if circumstances warrant change. If modification or termination of Supportive Measures is not made upon request, the Reporting Party or the Respondent may request the Title IX Coordinator to assign an impartial Employee to review their request to modify or reverse the College's decision to provide, deny, modify, or terminate any or all Supportive Measures applicable to them. Upon receipt of such request by either Party, the Title IX Coordinator will designate an impartial Employee to decide whether to grant the modification or reversal request. The impartial Employee will not be the same Employee who made the challenged decision and will be an Employee who has the authority to modify or reverse the decision. The decision will be modified or reversed if the impartial Employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with this Policy.

D. Measures for avoiding contact with other involved Parties

Martin Luther Limited-Contact Directives.

On a small campus like Martin Luther, it is not feasible to expect that certain community members can avoid any and all contact with one another; however, it is possible to impose restrictions that ensure that intentional contact will not occur, and that individuals will immediately discontinue any inadvertent contact that may occur. A limited-contact directive is a College-issued order that prohibits one or both Parties from intentionally communicating with or contacting another (either directly or indirectly). This directive further orders that if any contact is inadvertently made, the individual(s) subject to the directive will take immediate action to discontinue contact with the other individual. To request a limited-contact directive from the College, individuals should contact the Title IX Coordinator.

Law Enforcement Order for Protection/Harassment Restraining Order.

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

The College does not issue harassment restraining orders or orders for protection, but one can be obtained through making an application to the Brown County District Court. Paperwork to petition the court for an order for protection or harassment restraining order is available from the NewUlm Police Department. These forms may be submitted to the Court Administrator in the Brown County Courthouse, 14 S State St, New Ulm, MN 56073 during business hours. Free

assistance filling out these forms is available by contacting the CADA of Brown County at 507-233-6663 (business line) or at 800-477-0466 (24/7 HelpLine) to get in touch with an advocate.

An order for protection and/or harassment restraining order can be enforced by contacting local law enforcement. An individual who obtains an order for protection and/or harassment restraining order is encouraged to forward a copy of the order to the Title IX Coordinator. Martin Luther is committed to ensuring that any such order issued by a court is fully upheld on the College's campus and at any Martin Luther-sponsored event.

E. Possible Alerts to the Martin Luther Campus

To achieve a safe and secure campus environment, all members of the campus community are encouraged to promptly Report any suspicious or criminal activity observed directly to College Security (507-359-3344) and the New Ulm Police Department (911 or 507-217-6750.) Employees (including Student employees) designated as Campus Security Authorities as defined by the Crime Awareness and Campus Security Act (Clery Act) are required to Report all known or suspected crimes to the Student Life Office for possible inclusion in the College's crime logs, campus notices, and annual campus security Report pursuant to the Clery Act. These Campus Security Authorities include Advisors to Student organizations; coaches of athletic teams; members of the College Security Team; members of the Faculty and Staff; members working for Housing; and other community members who have responsibility for Student and campus activities.

When serious crimes are Reported to a Campus Security Authority or local law enforcement that occur on campus geography and are deemed by the College to represent a serious or continuing threat to Students and Employees, College Safety and Security will issue a timely warning (Crime Alert) by email and/or text message to the campus community. The timely warning will provide general information surrounding the incident and how incidents of a similar nature might be prevented in the future. Crime Alerts are issued to the community by Campus Safety and Security when the College receives a Report of a serious crime occurring on the College's campus that:

- Is Reported to campus security authorities or local police agencies; and
- Is considered by the College to represent a serious or continuing threat to Students and Employees.

Serious crimes under the Clery Act include murder, sexual assault, robbery, burglary, and aggravated assault.

Publicly available recordkeeping, including Clery Act Reporting and disclosures such as the Annual Security Report and daily crime log, will not include names or other information that could identify individuals. All Reports of any crimes, including sexual misconduct, are available in the College's daily crime log. Individuals may contact the Student Life Office during normal business hours to review the daily crime log.

F. Instruction on the Importance of Preserving Evidence

Regardless of whether a Reporting Party decides to file a Complaint, they will be notified of the importance of preserving evidence as may be necessary to aid in a future proceeding such as if the

Reporting Party decides to initiate a Complaint Resolution Process or a criminal Investigation, or the Reporting Party seeks to obtain a protective order.

G. Discuss Forensic Medical Examination with Individuals Reporting Sexual Assault

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

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

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

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

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

H. Possible Emergency Removal of a Student

Regardless of whether a Complaint is filed, the College retains the right to remove a Student Respondent from the College’s education program or activity on an emergency basis. Before doing so, the College will perform an individualized safety and risk analysis, evaluating whether

an imminent and serious threat to the physical health or safety of a Reporting Party, any Students, Employees, or other individual arising from the allegations of sex-based Discrimination, Harassment or Retaliation exists that justifies removal. The College will provide the Respondent with an opportunity to challenge the decision immediately following the removal.

I. Possible Administrative Leave of an Employee

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

J. The College's Commitment to Privacy When Responding to Reports

The College will respect and safeguard the privacy of individuals who Report sex-based Discrimination, Harassment or Retaliation, and the privacy of other individuals involved in the process. Consistent with the College's need to carefully assess allegations of sex-based Discrimination, Harassment or Retaliation, information will be shared with College officials who have a need to know in order to assist in the review of a Report and the determination of appropriate responses. For matters that are reviewed under the Complaint Resolution Process, information will also be shared as is required by law and as is deemed necessary for conducting a fair, impartial and thorough Complaint Resolution Process and/or Informal Resolution Process.

What is the difference between privacy and confidentiality?

Some Employees are Confidential Resources. This means that they will not share information without permission from the Reporting Party. Conversations with Confidential Resources are privileged and will not be disclosed unless permitted by the Reporting Party or unless otherwise required by law. Although there are only a few Confidential Resources on campus, all Employees who receive information from a Reporting Party, a Respondent, or others involved in the College's response to a Report of sex-based Discrimination, Harassment or Retaliation are expected to keep information private. This means that information should only be shared with other College Employees who have a need to know the information (e.g., the Title IX Coordinator). This information is not shared with others in or outside of the College without the individual's express permission or unless otherwise legally authorized.

VI. INFORMAL RESOLUTION PROCESS

A. Overview

At any time prior to reaching a determination regarding responsibility for sex-based Discrimination, Harassment or Retaliation through the Complaint Resolution Process, the Parties may choose to enter into an Informal Resolution Process. The College encourages the use of the Informal Resolution Process, recognizing that Parties' participation is entirely voluntary and will only be implemented with their full written consent in accordance with the requirements of this section.

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

When a Report or Complaint of sex-based Discrimination, Harassment or Retaliation is resolved through an Informal Resolution Process, the Title IX Coordinator maintains authority to take steps, as appropriate, to ensure that sex-based Discrimination, Harassment or Retaliation does not continue or recur.

B. Consent by the Parties / College Approval

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

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

C. Timeframe of the Informal Resolution Process

Generally, an Informal Resolution Process will be completed within 20 calendar days from the Parties' written agreement to participate in the Informal Resolution Process. This timeline may be extended if necessary, including a temporary delay or the limited extension of time for good cause. The Parties will be notified simultaneously in writing of any extension of the timeframe and the reasons for such extension.

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 of sex-based Discrimination, Harassment or Retaliation;
- The requirements of the Informal Resolution Process;
- The right of any Party to withdraw from the Informal Resolution Process at any time prior to agreeing to a resolution;
- The right to resume with the Complaint Resolution Process if an agreement is not reached;
- That the Parties' agreement to a resolution at the conclusion of the Informal Resolution Process will conclude the matter and preclude either Party from initiating or resuming a Complaint arising from the same allegations;
- The potential terms that may be requested or offered in an Informal Resolution agreement, including notice that an Informal Resolution agreement is binding only on the Parties;
- What information the College will maintain from the Informal Resolution Process and whether and how the College could disclose such information for use in the Complaint Resolution Process if such a Process is initiated or resumed. In general, the College will only maintain a record of the finalized resolution agreement and, as such, will not share information with those investigating and adjudicating the Complaint Resolution process.

E. Informal Resolution Process Facilitator

The facilitator for the Informal Resolution Process will be a trained person designated by the Title IX Coordinator. A facilitator designated by the Title IX Coordinator may be an Employee or may be an external consultant. The facilitator will not be the same person as the Investigator or Adjudicator or Appeal Adjudicator in the Complaint Resolution Process.

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

F. Right to an Advisor

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

G. 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. In most cases the process will entail the facilitator attempting to mediate a resolution by meeting separately with the Parties.

H. Potential Terms and Outcomes of an Informal Resolution Process

The Parties have the right to withdraw from an Informal Resolution Process at any time up until an agreement is reached and signed by the Parties. The College may also declare an impasse or discontinue the Process for any reason. If the Process concludes without a resolution reached, the Reporting Party will determine whether to move forward with a Complaint, and may initiate a Complaint Resolution Process, or continue with an existing Complaint Resolution Process.

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

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

- Restrictions on contact between the Parties;
- Restrictions on participation in College activities or programs;
- Priority in residence hall selection and/or class registration, to minimize interactions between the Parties in residential and academic settings;
- Restrictions on physical presence in certain areas;
- Required attendance at educational programs;
- Required assessment and/or counseling;
- Leave of absence from school or employment;
- Resignation of employment;
- Non-disparagement;
- Reimbursement of expenses; and

- Agreement not to sue.

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

The 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-based Discrimination, Harassment or Retaliation 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 any subsequent Complaint Resolution Process.

VII. COMPLAINT RESOLUTION PROCESS

The College has adopted this Complaint Resolution Process to provide for a prompt and equitable resolution of all Complaints of sex-based Discrimination, Harassment or Retaliation made by Students, Employees, or other individuals who are participating or attempting to participate in the College's education programs and activities. In certain circumstances a Complaint Resolution Process may also be initiated by the Title IX Coordinator.

This Complaint Resolution Process Section of the Policy is divided into three sections. Section A) outlines general information applicable to all sex-based discrimination, harassment or retaliation complaints

Section B) outlines the phases in the process that apply to all Complaints of sex-based Discrimination, Harassment or Retaliation except for allegations of **Sex-Based Harassment** where a Reporting Party and/or a Respondent is a **Student**.

Section B) outlines the phases in the process that will be used when the Complaint involves an allegation of Sex-Based Harassment committed by or against a Student.

Why is there a separate Complaint Resolution Process for Sex-Based Harassment cases involving Students?

Current Title IX regulations provide additional requirements for Complaint Resolution Processes at postsecondary institutions like Martin Luther when addressing Complaints of Sex-Based Harassment involving a Student. This Complaint Resolution Process applies if a Student is a Reporting Party or Respondent. In order to comply with federal Title IX regulations, the College has a separate Complaint Resolution Process for these types of reports.

When a Reporting Party or Respondent is both a Student and an Employee of the College, the College will make a fact-specific inquiry to determine whether the Process described in Section A or Section B will be utilized. In making this determination, the College will consider whether the Party's primary relationship with the College is as a Student or an Employee, and whether the

alleged Sex-Based Harassment occurred while the Party was performing employment-related work.

When a Complaint alleges that a College's Policy or practice discriminates on the basis of a sex or gender, the College is not considered a Respondent under these procedures. None of the rights afforded to Respondents under this Complaint Resolution Process will apply when allegations are directed at the College and a policy or practice is alleged to be discriminatory.

A. General Information Applicable to All Discrimination, Harassment or Retaliation Complaints

1. Reservation of flexibility.

The procedures set forth in the Complaint Resolution Process reflect the College's desire to respond to Reports in good faith and in a manner that promotes fairness, impartiality and prompt resolution for all Parties. The College recognizes that each case is unique and that circumstances may arise which require the College to reserve flexibility in responding to the particular circumstances. Where legally permissible, and where it is deemed impractical or impossible to follow the procedures provided in this Complaint Resolution Process, or for some other reason the College deems it preferable to utilize a different process, the College reserves the right to modify the procedure or to take other administrative action as it deems appropriate under the circumstances. Unwelcome conduct related to an individual's sex/gender that does not rise to a level of being severe, pervasive, or objectively offensive may be referred to the appropriate College official for review under the College's Code of Student Conduct (for Students), Staff Handbook (for staff), or Faculty Manual (for faculty).

When the College receives a Report involving allegations of sex-based Discrimination, Harassment or Retaliation by a third party (an individual who is not a Student, faculty, or staff member) that is outside the scope of this Complaint Resolution Process, the Title IX Coordinator may exercise discretion to determine an appropriate resolution process based on the facts and circumstances of the matter. The Title IX Coordinator will document any Report received, the process used, and the outcome. If it is determined that it is more likely than not that a third party violated this Policy, appropriate Disciplinary Sanctions may include but are not limited to: conditions upon presence on campus or at College events, no-trespass and limited-contact directives, or other steps deemed necessary to protect the Reporting Party and the campus community. Any Party with concerns about the process or outcome should consult with the Title IX Coordinator.

2. Honoring Requests Not to Initiate the Complaint Resolution Process.

The College will honor an individual's preferences about whether to proceed with the Complaint Resolution Process, and will only take additional action in extremely rare circumstances when the College believes further action is legally required. The Title IX Coordinator will make the assessment of whether further action is necessary.

3. Role of the Title IX Coordinator.

The Title IX Coordinator is a resource for all Parties participating in the Complaint Resolution Process to answer questions or address concerns. The Title IX Coordinator is available to explain the Informal Resolution Process and the Complaint Resolution Process. The Title IX Coordinator can assist Parties with changes to existing Supportive Measures or with addressing concerns about the Complaint Resolution Process. The Title IX Coordinator will also notify (at times through the investigator) the Parties of the date, time, location, participants, and purpose of all investigative interviews at which a Party will be requested to attend with notice to provide the Party sufficient

time to prepare to participate before attending the interview. The Parties will also receive notice of all meetings or proceedings relating to the Complaint Resolution Process at which the other Party or Parties will be in attendance, including any meetings with the Investigator or other College officials. During the Complaint Resolution Process the Parties can expect to receive updates from the Title IX Coordinator as appropriate and warranted. When matters are brought to the Title IX Coordinator that fall outside the scope of this Policy, the Title IX Coordinator may refer the matter to other institutional representatives.

4. Appointment of Investigator, Adjudicator and Appeal Adjudicator.

Whenever a Complaint Resolution Process commences, the Title IX Coordinator will identify an Investigator to conduct a prompt, thorough, fair, and impartial Investigation. The College may retain an external Investigator to conduct the Investigation. The Investigator has broad discretion to determine the Investigation format. The Investigator is responsible for maintaining an orderly, fair, and respectful Investigation process and has broad authority to respond to disruptive or harassing behaviors, including adjourning an investigative meeting or excluding the offending person. When the Complaint Resolution Process commences, the Title IX Coordinator will also identify the Adjudicator that will

- Receive and review the Investigative report
- Ask the Parties to submit any questions they would like asked during the hearing
- Review and rule on the permissibility of questions received
- Arrange, with the Parties and the Title IX Coordinator, for a live hearing
- Ask whatever questions the Adjudicator has for parties and witnesses, as well as those questions submitted by the Parties.
- Come to a finding of “responsible” or “not responsible” for violating the sex-based Discrimination, Harassment or Retaliation policy
- Impose any Disciplinary Sanctions and Remedies if determined that the Respondent committed sex-based Discrimination, Harassment or Retaliation.

When the Complaint Resolution Process commences, the Title IX Coordinator will also identify the Appeal Adjudicator to review any appeal by either party.

5. Training of Individuals Involved in Administering the Complaint Resolution Process.

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

6. Avoiding Bias and Conflict of Interest.

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

If a Reporting Party or Respondent has any concern that an individual acting for the College under the Complaint Resolution Process has a conflict of interest, such concern should be Reported to the Title IX Coordinator no later than either two (2) business days after receiving the notice of the identity of the individual(s) assigned to the matter; or, in the case of a conflict of interest that arises after an individual is assigned to the matter, within two (2) business days after a conflict of interest arises. The Title IX Coordinator will review the concerns and take appropriate steps to

ensure that no conflicts of interest exist on the part of anyone involved in mediating, investigating, or adjudicating a Complaint under the Complaint Resolution Process.

If the Title IX Coordinator has a conflict of interest with respect to the Complaint Resolution Process, the Deputy Coordinator will oversee the administration of this Policy with respect to the specific Report at issue.

7. Standard of Proof.

In implementing these Complaint and Investigation Processes, the College will use the preponderance of evidence standard of proof to determine whether sex-based Discrimination, Harassment or Retaliation occurred. Applying this standard, the Adjudicator will evaluate relevant and not otherwise impermissible evidence for its persuasiveness to determine whether it is more likely than not that sex-based Discrimination, Harassment or Retaliation occurred. If the Adjudicator is not persuaded that it is more likely than not that sex-based Discrimination, Harassment or Retaliation occurred, the Investigator will issue a determination that the Respondent is not responsible for violating the Policy.

8. Burden of Proof.

The burden under the Complaint Resolution Process is on the College—not the Parties—to conduct a sufficient Investigation in accordance with this Complaint Resolution Process that gathers sufficient evidence to determine whether sex-based Discrimination, Harassment or Retaliation occurred.

9. Investigation of other policy violations.

If a Report of sex-based Discrimination, Harassment or Retaliation implicates other allegations of violations of College policy, the Title IX Coordinator will evaluate the allegations to determine whether the Investigation of sex-based Discrimination, Harassment or Retaliation and the other alleged misconduct may be appropriately investigated together under this Complaint Resolution Process.

10. Meeting with the Investigator.

The Investigator will seek to meet with all Parties during the Investigation to ask questions about the allegations and to provide the Parties an opportunity to address the allegations raised in the Complaint. Parties will be given adequate time to prepare to participate before an interview will be conducted. In addition to answering the Investigator's questions, the Parties should be prepared to provide the Investigator any evidence relevant to the Investigation, including the names of witnesses whom the Party believes should be interviewed

11. Commitment to fair treatment of all Parties.

The College seeks to ensure that all Reporting Parties and Respondents involved in the Complaint Resolution Process are treated with dignity and respect. The College strives to provide a process that is prompt, fair and impartial. Reporting Parties involved in this process should never be treated in a manner that suggests that they were at fault for, or that they should have done something differently to avoid sex-based Discrimination, Harassment or Retaliation. Respondents are presumed not responsible for the alleged sex-based Discrimination, Harassment or Retaliation until a determination regarding responsibility is made at the conclusion of the Complaint Resolution Process. If Parties have any concerns about the manner in which they are being treated throughout the Complaint Resolution Process, they should immediately report such concerns to the Title IX Coordinator.

Parties can expect the following:

- Prompt and equitable resolution of allegations of sex-based Discrimination, Harassment or Retaliation in adherence to the process and timeframes provided in the Complaint Resolution Process;
- Respect of their privacy in accordance with the Policy and legal requirements;
- Freedom from Retaliation for making a good faith Report of sex-based Discrimination, Harassment or Retaliation, or for participating in the Complaint Resolution Process;
- The opportunity to share concerns or issues about proceedings under the Complaint Resolution Process with the Title IX Coordinator;
- The opportunity to select an Advisor of choice, who may be but is not required to be an attorney, including the right to have that Advisor attend any meeting or proceeding under the Complaint Resolution Processes;
- The opportunity to challenge the Investigator, Adjudicator, Appeal Adjudicator, or Informal Resolution Process facilitator, for bias or conflict of interest;
- The opportunity to provide relevant evidence and identify witnesses during an Investigation;
- The opportunity to have timely and equal access to relevant evidence gathered during the Investigation under the Complaint Resolution Process; and
- Reasonable time to prepare in advance of any interview or other proceeding under the Complaint Resolution Processes.

12. Evaluation of Evidence.

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

13. Inadmissible Evidence. The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the College to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

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

14. Credibility Determinations.

Adjudicators will make credibility determinations based on the evidence obtained through Investigation. A person's status as a Reporting Party, Respondent, or witness will not impact credibility decisions.

15. Effect of non-participation and silence.

A Party to the Complaint Resolution Process or a witness may at any time decline to answer questions or otherwise participate in the Complaint Resolution Process. If a Party opts not to participate in the Complaint Resolution Process, the College will proceed with the process and make a determination based upon the information available. An adjudicator 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. The Investigator will not draw an inference about whether sex-based Discrimination, Harassment or Retaliation occurred based solely on a Party's or witness's refusal to respond to such questions.

16. Right to an Advisor of choice.

The College will provide the Parties with the same opportunities to be accompanied by an Advisor of their choice at any meeting or proceeding that occurs under an Informal Resolution Process or Complaint Resolution Process. An Advisor may be, but is not required to be, an attorney. The role of the Advisor is to provide a Party with advice and support. The College will not limit the choice or presence of the Advisor for either Party in any meeting or proceeding. If an Advisor learns of confidential information in the course of their role, they may not disclose such information other than for purpose of serving as a Party's Advisor.

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

- The purpose of the Advisor is to provide advice and support to a Party in the Informal Resolution Process and/or Complaint Resolution Process. The Advisor is not an advocate in either process.
- While Advisors are welcome to assist a Party in drafting communications to the Title IX Coordinator or others involved in the Informal Resolution Process or Complaint Resolution Process, the Advisor should not communicate directly with the Title IX Coordinator or other College representatives engaged in administering the Informal Resolution Process or Complaint Resolution Process.
- The Advisor may accompany their advisee to all meetings relating to the Informal Resolution Process or Complaint Resolution Process.
- Advisors may not interrupt or otherwise unduly delay the Informal Resolution Process or Complaint Resolution Process. The College will strive to accommodate Advisors' schedules; however, if an Advisor is not reasonably available to participate in the Informal Resolution Process or Complaint Resolution Process, the College reserves the right to move forward with its process in order to ensure its prompt completion.
- With the permission of their advisee, Advisors will be provided access to the same Investigation materials and evidence that is available to their advisee. This information frequently includes Student education records and other confidential and highly sensitive information. Advisors' access to such information is conditioned upon their agreement to maintain the confidentiality of these records except when disclosure is legally authorized. Advisors may only discuss information disclosed through the Investigation process with their advisee. For example, if a Party's Advisor is a faculty member, the faculty member may not share any information obtained during the Investigation process with other members of the faculty or staff.

Violations of confidentiality or other forms of interference with the resolution procedure by the Advisor may result in disqualification of an Advisor.

The College reserves the right to disclose information about the identity of one Party's Advisor to the other Party in an Informal Resolution Process or Complaint Resolution Process.

17. Additional Support Representative.

Upon a showing of good cause, a Party may be accompanied with an additional support representative to meetings with the Title IX Coordinator, the Investigator, or other proceedings under the Complaint Resolution Process. Good cause will exist upon a showing of special circumstances warranting the participation of the additional support representative. Examples of good cause include a Party who has a disability who needs additional support as an accommodation or a Party for whom English is not their primary language who needs the support of an interpreter.

18. The College will strive to promptly complete the Informal Resolution Process and/or Complaint Resolution Process. A general timeframe for each step in the process is provided in the Informal Resolution Process and for each phase of the applicable Complaint Resolution Process. These timeframes may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the Investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, Party or a Party's Advisor, to accommodate a Party with a disability, to account for College breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the Parties, or for other legitimate reasons. In cases where extensions may be necessary, the Title IX Coordinator will notify the Parties. Extensions will be no longer than necessary. The Reporting Party and Respondent will receive written notice of any extensions that will include the reasons for the delay and the anticipated length of the delay.

19. The College will take reasonable steps to protect the privacy of the Parties and witnesses during the Complaint Resolution Process. These steps will not restrict the ability of the Parties to obtain and present evidence, including by speaking with witnesses; consulting with their family members, Confidential Resources, or Advisor; or otherwise preparing for or participating in the Complaint Resolution Process. In speaking with witnesses, the Parties are prohibited from engaging in Retaliation. **The College will also take reasonable steps to prevent and address any unauthorized disclosure of information and evidence obtained solely through the Complaint Resolution Process.**

20. Waiver of Drug and Alcohol Violations.

When a Martin Luther Student, Employee or guest Reports sex-based Discrimination, Harassment or Retaliation, the College's main priority is to protect the safety and well-being of the members of our community. To do so, we need individuals who Report sex-based Discrimination, Harassment or Retaliation and those who participate in the Complaint Resolution Process to be honest and candid about the circumstance surrounding the Report. We do not want concerns about the College's Student Code of Conduct policies relating use or possession of alcohol and illicit drugs to cause individuals to either avoid Reporting or provide incomplete or inaccurate information during an Investigation. Therefore, individuals who Report sex-based Discrimination, Harassment or Retaliation, and individuals who participate as a Party or witness in an Investigation into allegations of sex-based Discrimination, Harassment or Retaliation will not be disciplined by the College for any violation of its Student Code of Conduct Policy on Alcohol and Illicit Drugs.

21. Expert Opinions.

Medical, forensic, technological or other opinions of experts may be sought by the Investigator or proffered by any of the Parties. When expert opinion information is directly related to the allegations raised in the Complaint, the Parties will be apprised of the information and provided an

opportunity to submit additional expert information.

22. Responsibility to Act in Good Faith and Provide Truthful Information.

Parties and witnesses who participate in the Complaint Resolution Process are expected to act in good faith and provide truthful information in connection with the Investigation and Adjudication of the Complaint. Individuals who opt to participate in the Complaint Resolution Process are expected to act in good faith and provide truthful and accurate information during the course of the Complaint Resolution Process.

B. Complaint Resolution Process for all Sex-based Discrimination, Harassment or Retaliation Complaints Except Sex-Based Harassment Complaints Involving a Student

Martin Luther has adopted this Complaint Resolution Process to provide for the prompt and equitable resolution of Complaints of sex-based Discrimination, Harassment or Retaliation made by Students, Employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator. This Complaint Resolution Process will be used to resolve all sex-based Discrimination, Harassment or Retaliation Complaints with the exception of Complaints of Sex-Based Harassment in which a Reporting Party or Respondent is a Student. Sex-Based Harassment Complaints involving a Student as a Party will be resolved using the process outlined in Section C below.

Phase 1 – Initiation of Complaint

The following people have a right to make a Complaint of sex-based Discrimination, Harassment or Retaliation requesting the College investigate and make a determination about alleged sex-based Discrimination, Harassment or Retaliation:

- A Reporting Party, which includes a Martin Luther Student or Employee who is alleged to have been subjected to conduct that could constitute sex-based Discrimination, Harassment or Retaliation; or
- A person other than a Student or Employee who is alleged to have been subjected to sex-based Discrimination, Harassment or Retaliation at a time when that individual was participating or attempting to participate in the College's education program or activity; or
- The Title IX Coordinator if it is determined that a Complaint is warranted following the analysis outlined below.

A Reporting Party is entitled to make a Complaint of Harassment only if the Reporting Party is alleged to have been subjected to the Harassment, or if the Reporting Party is the Title IX Coordinator. With respect to Complaints other than Harassment, in addition to the people listed above, the following persons have a right to make a Complaint:

- Any College Student or Employee; and
- 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-based Discrimination, Harassment or Retaliation.

If a Complaint is not initiated or is withdrawn, and if the Informal Resolution Process is not initiated or is terminated for any reason, the Title IX Coordinator may determine whether to initiate a Complaint of Sex-based Discrimination, Harassment or Retaliation after considering various factors including the following:

- Whether the Reporting Party requested not to proceed with initiating a Complaint;
- Reporting Party's reasonable safety concerns regarding an initiation of a Complaint;

- The risk that additional acts of Sex-based Discrimination, Harassment or Retaliation may occur if a Complaint is not initiated;
- The severity of the alleged Sex-based Discrimination, Harassment or Retaliation, including whether the Sex-based Discrimination, Harassment or Retaliation, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the Sex-based Discrimination, Harassment or Retaliation 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-based Discrimination, Harassment or Retaliation, including information suggesting a pattern, ongoing Sex-based Discrimination, Harassment or Retaliation alleged to have impacted multiple individuals;
- The availability of evidence to assist an Investigator in determining whether Sex-based Discrimination, Harassment or Retaliation occurred; and
- Whether the institution could end the alleged Sex-based Discrimination, Harassment or Retaliation and prevent its recurrence without initiating its Complaint Resolution Process.

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

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

Martin Luther may consolidate Complaints of Sex-based Discrimination, Harassment or Retaliation against more than one Respondent, or by more than one Reporting Party against one or more Respondents, or by one Party against another Party, when the allegations of Sex-based Discrimination, Harassment or Retaliation arise out of the same facts or circumstances.

Reporting Parties are encouraged to Report incidents of Sex-based Discrimination, Harassment or Retaliation as soon as possible; however, there is no deadline for initiating a Complaint.

Phase 2 – Notice of Allegations

Upon receipt of a Complaint and initiation of the Complaint Resolution Process, the Title IX Coordinator will provide a written Notice of Allegations that will apprise the Parties of the following:

- A summary of the procedures under the College's Complaint Resolution Process and Informal Resolution Process;
- The identity of the Parties (if known);
- The identity of the Investigator, Adjudicators, and Appeal Adjudicator;
- A summary of the information available to the College at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex-based Discrimination, Harassment or Retaliation, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;

- The Respondent is presumed not responsible for the alleged Sex-based Discrimination, Harassment or Retaliation until a decision is made during the Adjudication Phase;
- Prior to such a determination, the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The Parties may have an Advisor of their choice who may be, but is not required to be, an attorney;
- That the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and any Investigation Report that the Investigator may prepare as part of the Investigation; and
- Martin Luther prohibits knowingly making false statements or knowingly submitting false information and this prohibition applies during this Complaint Resolution Process.

If, in the course of an Investigation, the College learns of additional allegations of Sex-based Discrimination, Harassment or Retaliation by the Respondent toward the Reporting Party that are not included in the Notice of Allegations previously provided or that are included in a Complaint that is consolidated, the Title IX Coordinator will notify the Parties of the additional allegations in an amended Notice of Allegations.

If the Title IX Coordinator has reasonable concerns for the safety of any person as a result of providing the Notice of Allegations, the Title IX Coordinator may reasonably delay providing this notice of allegations in order to address the safety concern appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on speculation or stereotypes.

The timeframe for forwarding the Parties a copy of the Notice of Allegations will be within five (5) business days following the Title IX Coordinator's receipt of a Complaint unless delayed as noted above.

Phase 3 – Complaint Dismissal Assessment

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

- The College is unable to identify the Respondent after taking reasonable steps to do so;
- The Respondent is not participating in a Martin Luther education program or activity and is not employed by the College;
- The Reporting Party voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, or it is determined that, without the Reporting Party's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex-based Discrimination, Harassment or Retaliation even if proven; or

In addition to the initial Complaint Dismissal Assessment, the College reserves the right to review a dismissal assessment at any time during the Complaint Resolution Process if circumstances change that may warrant dismissal. For example, if a Reporting Party voluntarily withdraws allegations, or a Respondent is no longer participating in a program or activity or employed with the College, the Title IX Coordinator may, but is not required to, determine that dismissal of the Complaint is appropriate.

Before dismissing the Complaint, the Title IX Coordinator will make reasonable efforts to clarify the allegations with the Reporting Party.

Upon dismissal, the Title IX Coordinator will promptly notify the Reporting Party of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, then the Title IX Coordinator will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Reporting Party, or simultaneously if notification is in writing.

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

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

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, Investigator, or Adjudication Panel member, Appeal Adjudicator or had a conflict of interest or bias for or against Reporting Parties or Respondents generally or the individual Reporting Party or Respondent that would change the outcome.

If the dismissal is appealed, the Title IX Coordinator will:

- Notify the Parties of any appeal, including notice of the allegations, if a Notice of Allegations was not previously provided to the Parties;
- Include the Notice of Allegations if not previously provided to the Respondent;
- Ensure that the Appeal Adjudicator did not take part in an Investigation of the allegations or dismissal of the Complaint;
- Ensure that the Appeal Adjudicator has received annual training consistent with all legal obligations;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the Parties of the result of the appeal and the rationale for the result within 10 business days of receipt of an appeal.

When a Complaint is dismissed, the Title IX Coordinator will, at a minimum:

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

Phase 4 – Investigation

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

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

In some cases, the Title IX Coordinator may request the Investigator to prepare a summary of the evidence in an Investigation Report. The Investigation Report is intended to fairly summarize the relevant evidence gathered during the Investigation and identify the contested and uncontested facts relevant to the allegations at issue in the Complaint. The Investigation Report will not include any findings relating to the credibility of any Party or witnesses, and will not include any conclusion by the Investigator as to whether the Investigator believes a preponderance of the evidence supports a finding relating to a particular disputed fact or the overall Complaint of Sex-Based Harassment. In cases where an Investigation Report is prepared, the Parties will have an opportunity to respond to the Report in writing prior to the completion of the Investigation phase.

Prior to the completion of the Investigation phase, the Investigator will notify the Parties of the date upon which the Investigation will be deemed completed. This notification will be provided at least 10 calendar days prior to the end of the Investigation in order to provide the Parties sufficient time to submit all relevant and not otherwise impermissible evidence, and review and respond to the evidence. If a Party raises an issue or submits further evidence, this will not extend the 10-day period for review and comment prior to the end of the Investigation phase unless the Investigator determines that further Investigation is needed. If the Investigator determines that additional Investigation is needed, the Parties will be provided an additional 10-day period of time to review and comment on any additional evidence gathered before the Investigation phase closes. Once the 10-day period has passed and the Investigation phase has ended, the Parties will not be permitted to introduce additional evidence absent extraordinary circumstances where the Title IX Coordinator deems it necessary in order for the College to meet its burden of conducting an Investigation that gathers sufficient evidence to determine whether Sex-based Discrimination, Harassment or Retaliation occurred.

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

Phase 5 – Adjudication

Following the completion of the Investigation phase, the Investigator will submit to the Title IX Coordinator the Investigative Report, along with all relevant and not otherwise impermissible evidence, and any other submissions of the Parties. The Title IX Coordinator will turn all of this evidentiary material to the Adjudicator who has the responsibility to make a determination whether it is more likely than not that the Respondent violated the Policy prohibiting Sex-based Discrimination, Harassment or Retaliation. After making this determination, the Adjudicator will

prepare a written Notice of Decision summarizing the decision of whether Sex-based Discrimination, Harassment or Retaliation occurred and the rationale for the decision. The Notice of Decision will also provide the procedures and permissible bases for the Parties to appeal.

If the Adjudicator is not persuaded that a preponderance of evidence establishes that Sex-based Discrimination, Harassment or Retaliation occurred, whatever the quantity of the evidence is, the Adjudicator will not determine that Sex-based Discrimination, Harassment or Retaliation occurred, and will not impose any Disciplinary Sanctions on the Respondent. A Party, witness, or others participating in the Complaint Resolution Process will not be subject to any disciplinary action for making a false statement based solely on the determination there was insufficient evidence to find a Respondent responsible for Sex-based Discrimination, Harassment or Retaliation.

If there is a determination that Sex-based Discrimination, Harassment or Retaliation occurred, the Title IX Coordinator will, as appropriate:

- Coordinate the provision and implementation of Remedies to a Reporting Party and other people the Title IX Coordinator identifies as having had equal access to the College's education program or activity limited or denied because of Sex-based Discrimination, Harassment or Retaliation;
- Coordinate the imposition of any Disciplinary Sanctions on a Respondent, including notification to the Reporting Party of any such Disciplinary Sanctions; and
- Take other appropriate prompt and effective steps to ensure that Sex-based Discrimination, Harassment or Retaliation does not continue or recur within the College's education program or activity.

The Adjudication will be completed and the Parties will be notified of the outcome reached by the Adjudicator in the Notice of Decision that will be forwarded to the Parties within 10 business days from the date the Parties are notified of the conclusion of the Investigation.

Phase 6 – Imposition of Disciplinary Sanctions and Remedies

Prior to sending the Parties the Notice of Decision, the Adjudicator will notify the Title IX Coordinator of the decision whether there is a preponderance of evidence that the Respondent committed Sex-based Discrimination, Harassment or Retaliation. Where there is a finding the Respondent committed Sex-based Discrimination, Harassment or Retaliation, the Adjudicator will review the matter and determine appropriate Remedies and Disciplinary Sanctions to be imposed and included in the Notice of Decision forwarded to the Parties.

Remedies imposed by the Adjudicator will be designed to restore or preserve the Reporting Party's equal access to Martin Luther's education programs and activities. Remedies may include continuation of some or all of the Supportive Measures that were in place prior to or during the Complaint Resolution Process. It may also include other Remedies the Adjudicator deems appropriate to restore a Reporting Party's or other individual's access to an education program or activity.

Disciplinary Sanctions imposed upon a Respondent who is found responsible for Sex-based Discrimination, Harassment or Retaliation may include a variety of institutional responses or requirements, including, but not limited to, the following:

- For Students: expulsion; suspension; disciplinary probation; restriction of privileges; required assessment or counseling; required attendance at educational programs; restitution; not being allowed to represent the College in leadership, volunteer, or paid

positions; removal from campus housing; revocation of an honor or degree, and any other Disciplinary Sanctions listed in the *Code of Student Conduct* or deemed appropriate under the circumstances.

- For staff and faculty: a disciplinary warning, unpaid suspensions, suspension of promotion and salary increments, loss of prospective benefits, major fines, reduction in salary, suspension from service, suspension or withdrawal of privileges, demotion, termination of employment, and any other available Disciplinary Sanctions as specified by the faculty/staff handbooks. If the Adjudicator determines that it is more likely than not that a faculty member has violated this Policy and that dismissal may be an appropriate Disciplinary Sanction, the matter will be referred to the President, or the President's designee, for appropriate process and decision, which shall be determined and administered in a manner consistent with the faculty/staff handbook.

The propriety of any particular Disciplinary Sanction is reviewed on an individual basis based on the unique facts and circumstances. In keeping with the College's commitment to foster an environment that is safe, inclusive, and free of Sex-based Discrimination, Harassment or Retaliation, the Complaint Resolution Process provides the Adjudicator with wide latitude in the imposition of Disciplinary Sanctions tailored to circumstances of each unique matter.

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

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

The Title IX Coordinator is responsible for implementation of any Remedies and Disciplinary Sanctions imposed by the Adjudicator. Disciplinary Sanctions become effective either after the time for appeal has expired, or, if a Party appeals the Investigator's decision, after the Appeal Adjudicator issues a determination affirming the Investigator's decision. If the Appeal Adjudicator's decision results in further proceedings, the Disciplinary Sanctions imposed may be modified by the Adjudicator, and will not become final until the conclusion of all further proceedings and any appeals. If the Appeal Adjudicator's decision results in reversing a determination that the Respondent engaged in Sex-based Discrimination, Harassment or Retaliation, no Disciplinary Sanctions will be imposed.

The College will not impose any Disciplinary Sanctions on a Party for Sex-based Discrimination, Harassment or Retaliation under this Policy unless the Adjudicator determines at the conclusion of a Complaint Resolution Process that the Respondent engaged in prohibited Sex-based Discrimination, Harassment or Retaliation.

Phase 7 – Appeal

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

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

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

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available during the Investigation; and
- The Title IX Coordinator, Investigator, or the Adjudicator had a conflict of interest or bias for or against Reporting Parties or Respondents generally or the individual Reporting Party or Respondent that would change the outcome.

In reviewing any appeal, the Appeal Adjudicator has the ability to affirm the Adjudicator's decision, overturn the Adjudicator's decision, or remand the matter for further Investigation and Adjudication. The Appeal Adjudicator will simultaneously issue to both Parties a written decision describing the result of the appeal and the rationale for the result within five (5) business days after receipt of all appeal documents.

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

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

C. Complaint Resolution Process for Sex-Based Harassment Complaints Involving a Student Reporting Party and/or Respondent

Martin Luther has adopted this Complaint Resolution Process to provide for the prompt and equitable resolution of Sex-Based Harassment Complaints made by Students, Employees, or other individuals who are participating or attempting to participate in its education program or activity,

or by the Title IX Coordinator. This Complaint Resolution Process will be used to resolve all Sex-Based Harassment Complaints in which a Student is either a Reporting Party, a Respondent or both. Sex-Based Harassment Complaints that do not include a Student as a Party will be resolved using the process outlined in Section B above.

Phase 1 – Initiation of Complaint

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

- A Reporting Party, which includes a Martin Luther Student or Employee who is alleged to have been subjected to conduct that could constitute Sex-Based Harassment; or
- A person other than a Student or Employee who is alleged to have been subjected to Sex-based Discrimination, Harassment or Retaliation at a time when that individual was participating or attempting to participate in the College's education program or activity; or
- The Title IX Coordinator if it is determined that a Complaint is warranted following the analysis outlined below.

If a Complaint is not initiated or is withdrawn, and if the Informal Resolution Process is not initiated or is terminated for any reason, the Title IX Coordinator may determine whether to initiate a Complaint of Sex-Based Harassment after considering various factors including the following:

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

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

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

Martin Luther may consolidate other Complaints of Sex-Based Harassment and other Sex-based Discrimination, Harassment or Retaliation against more than one Respondent, or by more than one

Reporting Party against one or more Respondents, or by one Party against another Party, when the allegations of each Complaint arise out of the same facts or circumstances.

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

Phase 2 – Notice of Allegations

Upon receipt of a Complaint and initiation of the Complaint Resolution Process, the Title IX Coordinator will provide a written Notice of Allegations that will apprise the Parties of the following:

- A summary of the procedures under the College’s Complaint Resolution Process and Informal Resolution Process;
- The identity of the Parties (if known);
- The identity of the Investigator, Adjudication Panel members, and Appeal Adjudicator;
- A summary of the information available to the College at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute Sex-Based Harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The Respondent is presumed not responsible for the alleged Sex-Based Harassment until a decision is made during the Adjudication Phase;
- Prior to such a determination, the Parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The Parties may have an Advisor of their choice who may be, but is not required to be, an attorney;
- That the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence and any Investigation Report that the Investigator may prepare as part of the Investigation; and
- Martin Luther prohibits knowingly making false statements or knowingly submitting false information during this Complaint Resolution Process.

If, in the course of an Investigation, the Title IX Coordinator learns of additional allegations of Sex-Based Harassment by the Respondent toward the Reporting Party that are not included in the Notice of Allegations previously provided or that are included in a Complaint that is consolidated, the Title IX Coordinator will notify the Parties of the additional allegations in an amended Notice of Allegations.

If the Title IX Coordinator has reasonable concerns for the safety of any person as a result of providing the Notice of Allegations, the Title IX Coordinator may reasonably delay providing this notice of allegations in order to address the safety concern appropriately. Reasonable concerns will be based on individualized safety and risk analysis and not on speculation or stereotypes.

The timeframe for forwarding the Parties a copy of the Notice of Allegations will be within five (5) business days following the Title IX Coordinator’s receipt of a Complaint.

Phase 3 – Complaint Dismissal Assessment

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

- The College is unable to identify the Respondent after taking reasonable steps to do so;

- The Respondent is not participating in a Martin Luther education program or activity and is not employed by the College;
- The Reporting Party notifies the Title IX Coordinator in writing of the Reporting Party's voluntary withdrawal of any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and determines that, without the Reporting Party's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute Sex-Based Harassment even if proven; or
- The Title IX Coordinator determines the conduct alleged in the Complaint, even if proven, would not constitute Sex-Based Harassment.

In addition to the initial Complaint Dismissal Assessment, the Title IX Coordinator reserves the right to review a dismissal assessment at any time during the Complaint Resolution Process if circumstances change that may warrant dismissal. For example, if a Reporting Party voluntarily withdraws allegations, or a Respondent is no longer participating in a program or activity or employed with the College, the Title IX Coordinator may, but is not required to, determine that dismissal of the Complaint is appropriate.

If dismissal of a Complaint is based on the Reporting Party's voluntary withdrawal of the Complaint, the Reporting Party must provide the Title IX Coordinator notice of the withdrawal of the Complaint in writing.

Before dismissing the Complaint, the Title IX Coordinator will make reasonable efforts to clarify the allegations with the Reporting Party.

Upon dismissal, the Title IX Coordinator will promptly notify the Reporting Party in writing of the basis for the dismissal. If the dismissal occurs before the Respondent has been notified of the allegations, then the written notice of dismissal will only be provided to the Reporting Party. If the dismissal occurs after the Respondent has been notified of the allegations, then the Title IX Coordinator will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Reporting Party, or simultaneously if notification is in writing.

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

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

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

If the dismissal is appealed, the Title IX Coordinator will:

- Notify the Parties of any appeal, including notice of the allegations, if a Notice of Allegations was not previously provided to the Parties;
- Include the Notice of Allegations if not previously provided to the Respondent;
- Ensure that the Appeal Adjudicator did not take part in an Investigation of the allegations or dismissal of the Complaint;
- Ensure that the Appeal Adjudicator has received annual training consistent with all legal obligations;
- Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the Parties of the result of the appeal and the rationale for the result within 10 business days of receipt of an appeal.

When a Complaint is dismissed, the Title IX Coordinator will, at a minimum:

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

Phase 4 – Investigation

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

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

In some cases, the Title IX Coordinator may request the Investigator to prepare a summary of the evidence in an Investigation Report. The Investigation Report is intended to fairly summarize the relevant evidence gathered during the Investigation and identify the contested and uncontested facts relevant to the allegations at issue in the Complaint. The Investigation Report will not include any findings relating to the credibility of any Party or witnesses, and will not include any conclusion by the Investigator as to whether the Investigator believes a preponderance of the evidence supports a finding relating to a particular disputed fact or the overall Complaint of Sex-Based Harassment. In cases where an Investigation Report is prepared, the Parties will have an opportunity to respond to the Report in writing prior to the completion of the Investigation phase. The Investigator will provide each Party, upon request, information about the statements and evidence gathered from the other Party or Parties and witnesses, including access to the recordings of all Party and witness interviews. Access to these recordings will be provided with sufficient time for the Party to have a reasonable opportunity to identify questions the Party would like the Adjudicator to ask each Party and witness during the Adjudication Phase.

The Investigator will also provide each Party an opportunity to pose questions that the Investigator will ask during future meetings with the other Parties and witnesses. The Investigator will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of a Party or witness will not be permitted. The Investigator will give a Party an opportunity to clarify or revise a question that the Investigator determines is unclear or harassing. If the Party sufficiently clarifies or revises the question, the question will be asked.

To afford the Parties an adequate opportunity to respond to evidence and pose questions to other Parties and witnesses, it is likely that the Investigator will meet with Parties and witnesses multiple times throughout the course of an Investigation.

Prior to the completion of the Investigation phase, the Investigator will notify the Parties of the date upon which the Investigation will be deemed completed. This notification will be provided at least 10 calendar days prior to the end of the Investigation in order to provide the Parties sufficient time to submit all relevant and not otherwise impermissible evidence; review and respond to the evidence; and to ensure the Parties have had an opportunity to pose questions and follow-up questions to be asked of another Party and witnesses. If a Party raises an issue or submits further evidence, this will not extend the 10-day period for review and comment prior to the end of the Investigation phase unless the Investigator determines that further Investigation is needed. If the Investigator determines that additional Investigation is needed, the Parties will be provided an additional 10-day period of time to review and comment on any additional evidence gathered before the Investigation phase closes. Once the 10-day period has passed and the Investigation phase has ended, the Parties will not be permitted to introduce additional evidence absent extraordinary circumstances where the Title IX Coordinator deems it necessary in order for the College to meet its burden of conducting an Investigation that gathers sufficient evidence to determine whether Sex-based Discrimination, Harassment or Retaliation occurred.

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

Phase 5 – Adjudication and Hearing

Following the completion of the Investigation phase, the Investigator will submit to the Title IX Coordinator the Investigation Report, along with all relevant and not otherwise impermissible evidence, and any other submissions of the Parties. The Title IX Coordinator will turn all of this evidentiary material to the Adjudicator who has the responsibility to make a determination whether it is more likely than not that the Respondent violated the Policy prohibiting Sex-based Discrimination, Harassment or Retaliation.

Live Hearing

Prior to a live hearing, a pre-hearing meeting will take place with the Title IX Coordinator, the parties, and the advisors to clarify the hearing rules. During a live hearing, the Complainant and

Respondent with their Advisors will agree to be in two separate locations connected via video and audio, so that parties can see and hear each other in real-time. Live hearings will be recorded and will be made available to the parties for inspection and review.

The hearing panel will be presided over by the Adjudicator. Live hearings allow for cross-examination of both parties and any witnesses.

- Only the Adjudicator may ask questions during the live hearing.
- The Adjudicator will ask parties to submit ahead of time any questions they want asked of the other Party or any witnesses. This gives the Adjudicator time to vet the questions as to their permissibility and relevancy.
 - Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent.
- Reporting Party and Advisor will appear before the Adjudicator first, the Adjudicator will ask questions of the Respondent and any witnesses assembled for the hearing.
- Once this is completed, the Respondent and Advisor will appear before the Adjudicator, the Adjudicator will ask questions of the Reporting Party and any witnesses assembled for the hearing.
- The Adjudicator cannot draw an inference about the determination regarding responsibility based **solely** on a Party’s or witness’s absence from the live hearing or refusal to answer questions.

A Note on Recording during the Investigation and Live Hearing
Audio or video recording of any proceedings are prohibited by any party other than the College throughout this process. The burden of proof and responsibility for gathering evidence will rest on the College and not on either party.

After making a determination, the Adjudicator will prepare a written Notice of Decision to notify the Parties simultaneously of the determination whether Sex-Based Harassment occurred.

The Notice of Decision will include the following:

- A description of the alleged Sex-Based Harassment;
- Information about the policies and procedures that the Adjudicator used to evaluate the allegations;
- The Adjudicator’s evaluation of the relevant and not otherwise impermissible evidence leading to a determination whether Sex-Based Harassment occurred; and
- The College’s procedures and permissible bases for the Parties to appeal.
- When the Adjudicator finds that Sex-Based Harassment occurred, the Notice of Decision will also include any Disciplinary Sanctions the Adjudicator imposes on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided to the Reporting Party, and, to the extent appropriate, other Students identified to be experiencing the effects of the Sex-Based Harassment.

If the Adjudicator is not persuaded that a preponderance of evidence establishes that Sex-Based Harassment occurred, whatever the quantity of the evidence is, the Adjudicator will not determine

that Sex-Based Harassment occurred, and will not impose any Disciplinary Sanctions on the Respondent.

The Notice of Decision will be forwarded to the Parties by the Title IX Coordinator within 10 business days of the conclusion of the Live Hearing.

A Party, witness, or others participating in the Complaint Resolution Process will not be subject to any disciplinary action for making a false statement based solely on the determination there was insufficient evidence to find a Respondent responsible for Sex-Based Harassment.

If there is a determination that Sex-Based Harassment occurred, the Title IX Coordinator will, as appropriate:

- Coordinate the provision and implementation of Remedies to a Reporting Party and other people the Title IX Coordinator identifies as having had equal access to the College's education program or activity limited or denied as a result of Sex-Based Harassment;
- Coordinate the imposition of any Disciplinary Sanctions on a Respondent, including notification to the Reporting Party of any such Disciplinary Sanctions; and
- Take other appropriate prompt and effective steps to ensure that Sex-Based Harassment does not continue or recur within the College's education program or activity.

Phase 6 – Imposition of Disciplinary Sanctions and Remedies

Remedies enacted will be designed to restore or preserve the Reporting Party's equal access to Martin Luther's education programs and activities. Remedies may include continuation of some or all of the Supportive Measures that were in place prior to or during the Complaint Resolution Process. It may also include other Remedies deemed appropriate to restore a Reporting Party's or other individual's access to an education program or activity.

Disciplinary Sanctions imposed upon a Respondent who is found responsible for Sex-Based Harassment may include a variety of institutional responses or requirements, including, but not limited to, the following:

- For Students: expulsion; suspension; disciplinary probation; restriction of privileges; required assessment or counseling; required attendance at educational programs; restitution; not being allowed to represent the College in leadership, volunteer, or paid positions; removal from campus housing; revocation of an honor or degree, and any other Disciplinary Sanctions listed in the *Code of Student Conduct* or deemed appropriate under the circumstances.
- For staff and faculty: a disciplinary warning, unpaid suspensions, suspension of promotion and salary increments, loss of prospective benefits, major fines, reduction in salary, suspension from service, suspension or withdrawal of privileges, demotion, termination of employment, and any other available Disciplinary Sanctions as specified by the *Martin Luther Faculty/Staff Handbook* as applicable.
- If the Adjudication Panel determines that it is more likely than not that a faculty member has violated this Policy and that dismissal may be an appropriate Disciplinary Sanction, the matter will be referred to the President, or the President's designee, for appropriate process and decision, which shall be determined and administered in a manner consistent with the Faculty Handbook.

The propriety of any particular Disciplinary Sanction is reviewed on an individual basis based on the unique facts and circumstances. In keeping with the College's commitment to foster an

environment that is safe, inclusive, and free of Sex-Based Harassment, the Complaint Resolution Process provides wide latitude in the imposition of Disciplinary Sanctions tailored to circumstances of each unique situation.

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

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

The Title IX Coordinator is responsible for implementation of any Remedies and Disciplinary Sanctions imposed. Disciplinary Sanctions become effective either after the time for appeal has expired, or, if a Party appeals the decision, after the Appeal Adjudicator issues a determination affirming the decision. If the Appeal Adjudicator's decision results in further proceedings, the Disciplinary Sanctions imposed will not become final until the conclusion of all further proceedings and any appeals. If the Appeal Adjudicator's decision results in reversing a determination that the Respondent engaged in Sex-Based Harassment, no Disciplinary Sanctions will be imposed.

Phase 7 – Appeal

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

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

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

- Procedural irregularity that would change the outcome;

- New evidence that would change the outcome and that was not reasonably available during the Investigation; and
- The Title IX Coordinator, Investigator, or Adjudicator had a conflict of interest or bias for or against Reporting Parties or Respondents generally or the individual Reporting Party or Respondent that would change the outcome.

In reviewing any appeal, the Appeal Adjudicator has the ability to affirm the finding, overturn the finding, or remand the matter for further Investigation and Adjudication. The Appeal Adjudicator will simultaneously issue to both Parties a written Appeal Decision describing the result of the appeal and the rationale for the result within five (5) business days after receipt of all appeal documents.

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

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

VIII. RECORDKEEPING

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

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

IX. POLICY REVIEW

A. Ongoing internal Policy review

This Policy is maintained by the Title IX Coordinator’s Office and subject to ongoing review and improvement. The Title IX Coordinator’s Office will review this Policy on an annual basis.

B. External recourse

Nothing in this Policy or Complaint Resolution Process is intended to interfere with the right of any individual to pursue other avenues of recourse which may include, but are not limited to, filing a complaint with the United States Department of Education, Office for Civil Rights (OCR). Any individual who has made a Report of Sex-based Discrimination, Harassment or Retaliation and/or initiated the Complaint Resolution Process, and who believes the College’s response did not comply with this Policy and the College’s legal obligations, or who otherwise believes they have been discriminated against, may file a complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education. The OCR office that oversees institutions in Minnesota, including Martin Luther, is:

U.S. Department of Education
Office for Civil Rights
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, IL 60661-4544
Tel: 312.730.1560
TDD: 877.521.2172
Email: OCR.Chicago@ed.gov