

## REPORTING, INVESTIGATING, AND RESOLVING SEXUAL MISCONDUCT, RELATIONSHIP VIOLENCE, AND STALKING - COMPLAINTS AGAINST STUDENTS

### [Reporting Flow Chart – What happens next?](#)

#### INTRODUCTION

The following process applies to the reporting, investigating, and resolving violations of the Policy where an incident involving a Student as a Respondent has been or will be reported to the University (“Procedures”). These Procedures should be read in the context of the Policy and capitalized terms used in these Procedures are defined in the Policy. Covered Persons who wish to make a report of Prohibited Conduct against a Student are encouraged to contact the Title IX Coordinator, the Associate Vice President for Student Affairs, the Assistant Vice President for Student Affairs, or Campus Security and Safety.

#### I. INITIAL RESPONSE AND TITLE IX ASSESSMENT

When a Complainant or Covered Person reports an incident of Prohibited Conduct, the University will take immediate and appropriate steps to address immediate physical safety and emotional well-being needs, investigate or otherwise determine what happened and work to resolve the matter promptly and equitably.

**A. Assessment:** Upon receipt of a report, the Title IX Coordinator will conduct an initial assessment. As part of the initial assessment, the Title IX Coordinator will:

1. Assess the nature and circumstances of the report.
2. Discuss the Complainant’s expressed preference for the manner of resolution and any barriers to proceeding.
3. Notify the Complainant of the right to contact law enforcement in order to file criminal charges, decline to contact law enforcement, or seek an order of protection.
4. Notify the Complainant of the right to seek medical treatment, including the importance of preserving evidence.
5. Assess for pattern evidence or other similar conduct by Respondent.
6. Notify the reported conduct to the Director of Campus Security and Safety for assessment of any Clery Act obligations, including entry in the crime log or issuance of a timely warning.
7. Provide the Complainant with written information about on-campus and off-campus resources and the range of appropriate and available protective measures based on the status of the Complainant.
8. Explain the University’s policy prohibiting Retaliation.
9. Explain the University’s policy on Sexual Misconduct.

**B. Requests to Maintain Privacy or Not Seek Disciplinary Action:** If a Complainant who has reported an incident of Prohibited Conduct requests that his/her name or other identifying information not be shared with a Respondent, that no investigation into a particular incident be conducted, and/or that no disciplinary action be taken against the Respondent, the University will balance this request against the University’s commitment to a safe learning, living, and working environment for all community members, including for the Complainant. The Complainant may make any the above requests at any point after the report is made.

The request will be evaluated by the Title IX Coordinator in consultation with senior administrators. When considering whether to honor a Complainant's request for privacy or that no investigation or disciplinary action be pursued, the University will consider a range of factors, including: the risk that the Respondent may commit additional acts of Prohibited Conduct or other violence, taking into consideration, among other matters, any known history of arrests, violence, or other complaints of Prohibited Conduct involving the Respondent, any threats of future violence made by the Respondent, and whether multiple Respondents were involved in the reported incident; whether the act of Prohibited Conduct was perpetrated with a weapon, was otherwise unusually violent, or whether other aggravating circumstances exist; whether the report reveals a pattern of Prohibited Conduct; whether the Complainant is or at the time was a minor; and whether the University is able as a practical matter to pursue the investigation without the participation of the Complainant (e.g., whether there is other relevant evidence of the Prohibited Conduct such as security cameras, other witnesses, or physical evidence).

Where possible based on the facts and circumstances, the University will seek action consistent with the Complainant's request to maintain his/her privacy and/or not conduct further investigation. However, the University will be limited in its ability to respond to the matter in other than potentially general ways such as providing targeted training or prevention programs or offering reasonably available protective measures or accommodations to the Complainant. Where the University agrees to the Complainant's request to maintain his/her privacy and/or not conduct further investigation, the matter will be considered resolved with the University taking such general steps and such protective measures or accommodations as it deems appropriate. The University recognizes that a Complainant may initially be hesitant to move forward, but later seek an investigation. Where a report was closed because the University agreed to the Complainant's request to maintain his/her privacy and/or not conduct further investigation, the matter may later be reopened at the discretion of the Title IX Coordinator.

Where the balance of factors requires that further investigation be conducted, that disciplinary action be taken, or that the identity of the Complainant be disclosed, the University will inform the Complainant of its intent to investigate prior to commencing the investigation and/or of its intent to disclose the identity of the Complainant. In such cases, the University will make reasonable efforts to protect the privacy of the Complainant consistent with the needs of the investigation and resolution of the matter; however, an investigation normally involves speaking with the Respondent and others who may have relevant information about the incident and disclosing the identity of the Complainant as necessary in those conversations.

A Complainant may receive support and safety services regardless of their level of participation or engagement with these Procedures.

**C. Determination after Assessment:** After the initial assessment, the Title IX Coordinator will determine whether the circumstances warrant proceeding to an investigation. The Title IX Coordinator may consult with senior administrators during the assessment. The determination as to how to proceed will be communicated to the Complainant in writing. Depending on the circumstances and requested resolution, the Respondent may or may not be notified of the report or resolution. A Respondent will be notified when the University takes action that would impact a Respondent, such as protective measures that restrict the Respondent's movement on campus, the initiation of an investigation, or the decision to seek to involve the Respondent in Alternate Resolution.

Following this assessment, during an investigation, or at any point in the Disciplinary Process, the University may seek an Alternate Resolution that, as appropriate, endeavors to prevent future Prohibited Conduct and address its effects without conducting or concluding, as applicable, a formal Disciplinary Process against a Respondent. Alternatively, if appropriate, the University may pursue an Investigation and Disciplinary Process.

## **II. ALTERNATE RESOLUTION**

The University may offer a form of Alternate Resolution (which for purposes of these Procedures may include the possibility of Mediation) in place of an Investigation or Disciplinary Process. Alternate Resolution is not appropriate for all cases of Prohibited Conduct, and the University retains the discretion to determine which cases may be appropriate for Alternate Resolution and the type of Alternate Resolution process that may be appropriate in a specific case. Mediation, even where voluntary, may not be used in cases involving Sexual Assault.

Participation in Alternate Resolution (including the specific form of Alternate Resolution, such as Mediation) is voluntary. The University will not compel a Complainant or Respondent to engage in Alternate Resolution, will not compel a Complainant to directly confront the Respondent, and will allow a Complainant or Respondent to withdraw from Alternate Resolution at any time. The University also reserves the right in its discretion to terminate an Alternate Resolution process at any time. In addition, the Complainant, Respondent, and the University must each agree before a case will be resolved through Alternate Resolution.

Alternate Resolution may involve individual and/or community remedies that are designed to address a report of Prohibited Conduct. Interventions can include, among others: remedies designed to maximize the Complainant's access to educational, extracurricular, and/or employment activities; providing increased monitoring, supervision, and/or security at locations or activities where the misconduct occurred or is likely to reoccur; facilitating a voluntary meeting with the Complainant and the Respondent (in cases that do not involve Sexual Assault); conducting targeted or broad-based educational programming or training for relevant individuals or groups; requiring counseling; providing housing accommodations for Student Complainants; making academic accommodations for Student Complainants or providing workplace accommodations for Employee Complainants; imposing sanctions as set forth in the University Disciplinary Process and Procedures, which include Warning, Censure, Disciplinary Probation, Restitution, Monetary Fine, Suspension of Privilege, Suspension from the University, No Contact Directive, Dismissal; and/or any other remedy that can be tailored to the involved individuals to achieve the goals of the Policy.

If an agreement acceptable to the University, the Complainant, and the Respondent is reached through Alternate Resolution, the matter is considered to be resolved and the terms are implemented. If an agreement is not reached, the matter will be referred for an Investigation or Conduct Meeting, if appropriate.

The Title IX Coordinator will maintain records of all reports and conduct referred for Alternate Resolution, which typically will be completed within thirty days of the initial report.

### **III. INVESTIGATION**

Upon a determination by the Title IX Coordinator that a matter is to be investigated, the investigation will proceed as follows:

**A.** As a first step, the Title IX Coordinator will designate an investigator(s), which may be an internal or external investigator (“Investigator”) to conduct a prompt, thorough, and impartial investigation of the report in the manner the Investigator deems appropriate.

**B.** During the investigation, the Complainant and Respondent will have an equal opportunity to be heard, to submit information and corroborating evidence, and to identify witnesses who may have relevant information. The Investigator will notify and seek to meet with all involved parties separately (e.g., the Complainant, the Respondent, and identified witnesses) and also will gather other evidence and information relevant to the determination as to whether or not a Policy violation has occurred.

**C.** Where there is evidence of a pattern of similar conduct by the Respondent or of violent acts or other related conduct, either before or after the conduct in question, regardless of whether there has been a prior finding of a Policy violation, this information may be deemed relevant to the determination of a Policy violation and/or in assigning a sanction. The determination of relevance will be based on an assessment of whether the previous or subsequent incident was substantially similar to the conduct cited in the report, indicates a pattern of behavior and substantial conformity with that pattern, or is otherwise associated with the conduct cited in the report. Prior or subsequent conduct of the Respondent also may be admissible to prove intent, motive, or absence of mistake.

**D.** In general, a Complainant’s prior sexual history is not relevant and will not be considered as evidence during an investigation. However, where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in the Policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is typically not relevant and will be permitted only under limited circumstances, such as to prove intent, motive, absence of mistake, or to explain an injury or physical finding; or where prior acts of Prohibited Conduct are relevant.

**E.** The Investigator has the discretion to determine the relevance of any proffered evidence and may determine that certain types of evidence should be included or excluded in the determination of responsibility.

**F.** Throughout the process, each Complainant and Respondent has the right to be accompanied by an advisor of his/her choice. The advisor may be present at any meeting related to resolution of a report under the Policy, and may be anyone of the individual’s choosing who is not otherwise a party or witness involved in the investigation. While the advisor may be present, the advisor may not speak or otherwise participate in the meetings and must comport him/herself in a manner that is not disruptive to the meetings.

**G.** At the conclusion of the investigation, the Investigator will prepare an investigation report that summarizes the information gathered and outlines the contested and uncontested information. Both the Complainant and the Respondent will be given the opportunity to review the draft report, submit

any additional comment or information to the Investigator, and identify any additional information or witnesses. The Investigator will designate a reasonable time for review and response. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the Investigator at this juncture will not be considered by the Investigator.

**H.** Once the Investigator has reviewed any additional comments or information, the Investigator will finalize the report and will determine whether there is sufficient information, by a preponderance of the evidence, to support a finding of responsibility for a violation of the Policy. In reaching this determination, the Investigator may consult with senior administrators, including the designated member of the President's Office.

1. If the Investigator determines that there is sufficient information, by a preponderance of the evidence, to support a finding of responsibility for a violation of Policy, the report will be submitted to Student Affairs for further action.
2. If the Investigator determines that there is insufficient information, by a preponderance of the evidence, to support a finding of responsibility for a violation of the Policy, a copy of the report will be provided to the Title IX Coordinator who will in turn, provide to the Complainant, and the Respondent and to Student Affairs. The Complainant may request Administrative Review of the finding. Administrative Review will be conducted by the Title IX Coordinator ("Reviewer"). The Reviewer may consult with the Investigator, the Complainant, the Respondent, or any other individual. The Complainant or Respondent also may submit additional information to the Reviewer in writing. The Reviewer may agree with the investigative finding, request additional investigative follow-up, or direct that the report be forwarded to Student Affairs for further action. The Reviewer will render a decision in writing to the Complainant, the Respondent and Student Affairs.

**I.** The investigation typically will be completed within thirty business days from the date of the initiation of the investigation. This timeframe may be extended for Alternate Resolution and also may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for University 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, as determined by the University. Any extension of the timeframes, other than for Alternate Resolution, and the reason for the extension, will be shared with the parties in writing.

**J.** At the request of law enforcement, the University may agree to defer its Title IX investigation until after the initial stages of a criminal investigation. The University will nevertheless communicate with the Complainant regarding the availability of protective measures and accommodations and available courses of action under the Policy and these Procedures. The University will promptly resume its Title IX investigation as soon as it is notified by law enforcement that there is no longer a need to delay.

**K.** The Investigator may consult with senior administrators during the investigation.

**L.** When the Investigation Report is completed, the Title IX Coordinator sends a copy to Student Affairs, a redacted copy to the Complainant, and a redacted copy to the Respondent.

#### **IV. DETERMINATION OF VIOLATION AND SANCTIONS; NOTICE OF OUTCOME**

**A.** Once Student Affairs has received the Investigation Report, the Conduct Officer may accept the report as presented or may request that an Investigator conduct additional interviews or seek out other evidence. Any additional investigation and the resulting supplemental report should be completed promptly.

**B.** Once the investigation is completed and a final report has been submitted to Student Affairs, the Conduct Officer will proceed as described in the Student Code of Conduct to determine the appropriate sanction(s).

In determining the appropriate sanctions(s), the Conduct Officer will consider a number of factors, including:

- The nature of the conduct at issue, including whether it involved violence
- The impact of the conduct on the Complainant
- The impact or implications of the conduct on the University community
- Any previous conduct violations by the Respondent, both at the University or elsewhere, as well as any criminal convictions
- Whether Respondent has accepted responsibility for the conduct
- Need to maintain a safe and respectful environment conducive to learning; and
- Any other mitigating, aggravating, or compelling circumstances

Appropriate sanctions may also consist of and/or include sanctions designed to provide Respondents with an opportunity to (1) reflect upon and become aware of the impact their actions had on the Complainant and the University community; and (2) identify how to prevent or change their behavior; (3) separate the Student from the University to provide a community that is free from harassment, discrimination and sexual misconduct.

The potential sanctions for violations of this policy, which may be issued singly or in combination, are set forth in the Student Code of Conduct.

**Notification of Outcome:** The Complainant, Respondent and Student Affairs will be notified simultaneously in writing via email sent to each person's Saint Leo email account with the outcome of the Conduct Meeting and the options for appeal.

#### **V. APPEAL**

The Complainant or Respondent may appeal the violation determination and/or the sanction determination as described in the Student Code of Conduct by submitting an appeal form to the Associate Vice President of Student Affairs or designee. Grounds for an appeal are limited to (1) a procedural error has occurred in violation of the student's rights during the original disciplinary process; (2) new information, relevant to the case, was discovered and was verifiably not available during the original disciplinary proceedings; and /or (3) disproportionate sanctions. The Associate Vice President of Student Affairs or designee will notify the other party if the other party files an appeal and will be provided an opportunity to respond in writing, if granted. The Appellate Officer will adjudicate the appeal within thirty (30) days.

## **VI. RECORDKEEPING**

The Title IX Coordinator is responsible for maintaining the official University records of sexual misconduct reports and complaints. When a report or complaint is pending, each official having a role in the response and resolution process is responsible for handling records appropriate to his or her role. When the process is complete, the official records relating to the report or complaint will be provided to the Title IX Coordinator, who will maintain such records in accordance with the University's record retention requirements and applicable law. The official records include:

**A.** In cases where an Alternative Resolution is reached: (1) a summary of the report received; (2) a summary of the Title IX Coordinator's analysis of the use of an Alternative Resolution; and (3) a summary of the process used, the responsive action taken by the University, and the resolution reached.

**B.** In cases where an investigation took place:

1. A description of any protective measures or other interim action taken and copies from the University to the Complainant and Respondent relating to the interim action.

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