

# Sexual Misconduct Policy and Procedures

## Bethel University and Bethel University Foundation

### Purpose, Scope, and Policy

Bethel University and the Bethel University Foundation (hereinafter referred to as Bethel) are committed to maintaining a Christ-centered community, free of discrimination, including sexual harassment, sexual violence, and sexual misconduct in all of its forms. Bethel prohibits domestic violence, dating violence, sexual assault, and stalking. Bethel will not tolerate sexual misconduct by or against its students, faculty, or staff. In addition, visitors, volunteers, vendors, consultants, third parties, or any person that provides services to Bethel are required to comply with the provisions of this policy. All community members must comply with this policy, whether on campus or off campus, when engaged in activities sponsored by Bethel, or otherwise related to Bethel or its business. Such activities include, but are not limited to classes, seminars, meetings, and study abroad programs.

All employees are required to report any instance of sexual harassment, sexual violence, and sexual misconduct to the Title IX Coordinator. The only exception to being a mandatory reporter is if one is a confidential resource. Confidential resources are listed at the end of this policy.

The purposes of this policy include:

- Prohibiting all forms of sexual misconduct,
- Creating a work environment that is free from sexual misconduct,
- Encouraging good faith complaints when sexual misconduct has occurred, and
- Providing options for addressing and resolving complaints of sexual misconduct.

All incoming students and new employees are required to attend a program on primary prevention and awareness. Persons who believe that they have experienced sexual misconduct or have witnessed sexual misconduct of another community member are expected to bring the conduct to the attention of appropriate individuals so that Bethel can take prompt corrective action. Bethel will take prompt corrective action against any sexual misconduct by or against its community members. All Bethel community members are directed to implement and abide by the procedures outlined in this policy.

All complaints will be taken seriously and no one who acts in good faith to report sexual misconduct, including third parties (e.g., vendors), will suffer actual or threatened retaliation or reprisal. Complaints of sexual misconduct will be treated in confidence to the extent feasible, given the need to conduct a thorough investigation and take corrective action. If it is determined through an appropriate and prompt investigation that sexual misconduct has occurred, effective corrective action will be taken to eliminate the sexual misconduct, attempt to ensure that it does not recur, and appropriately care for those who may have been harmed. Depending on circumstances and the severity of the conduct, corrective action will vary. Resolution steps could include one or more of the following for students: counseling, advising or coaching from student life or campus ministry professionals, reflection paper, behavioral probation, suspension, dismissal, or expulsion. For employees resolution steps could include one or more of the following: counseling, training, advising or coaching from a professional, verbal or written warning, termination, or criminal prosecution.

## Definitions

### Sexual Misconduct

Sexual misconduct is a broad and overarching term used to identify the conduct that constitutes a form of sex discrimination which violates federal and state law, including Title VII of the Civil Rights Act of 1964; Title IX, Education Amendments of 1972; the Minnesota Human Rights Act and Bethel policy. All sexual misconduct is prohibited and includes, but is not limited to sexual harassment, sexual violence, domestic violence, dating violence, actual or attempted sexual assault, stalking, sexual coercion, sexual exploitation, and going beyond the boundaries of consent.

### Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, physical, electronic or digital conduct or communication of a sexual or gender-based nature, when submission to or rejection of the conduct explicitly or implicitly affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile or offensive working, learning, or living environment. Sexual violence is a form of sexual harassment which may also constitute criminal conduct.

There are two kinds of sexual harassment:

- Quid pro quo harassment, in which the harasser either provides or denies an employment or educational benefit in exchange for sexual favors, or makes an adverse employment or educational decision on the basis of rejection of sexual advances.
- Hostile environment harassment, in which the working or learning environment is made abusive. An abusive or hostile environment is one that is reasonably and actually perceived by the complaining party as abusive by making it more difficult to do one's job or pursue one's education. Any act of sexual violence creates a hostile environment in violation of this policy.

Examples of quid pro quo sexual harassment include, but are not limited to, the following: a supervisor granting a promotion to an employee

because the employee unwillingly consents to have sexual relations with the supervisor; a supervisor firing an employee because the employee refuses to have sexual relations with the supervisor; a faculty member providing an undeserved failing grade to a student because the student refuses to have sexual relations with the faculty member; a faculty member giving an undeserved high grade to a student because the student consents to have unwanted sexual relations with the faculty member; or a supervisor providing positive references or evaluations for an employee or student in exchange for sexual favors.

Examples of hostile environment harassment include, but are not limited to, the following: requests for sexual favors, persistent sexual slurs, repeated requests for an unwelcome sexual relationship, continual sexually suggestive jokes, gestures or sounds, a pattern of widespread favoritism based on sexual relationships, pornographic or suggestive materials offensive to others, or unwelcome sexual touching. A hostile environment can exist by virtue of a combination of individual incidents that would not, individually, constitute sexual harassment. In order for these examples or other behaviors to constitute hostile environment harassment, the effect of the harassment must create an abusive or hostile environment, usually over a period of time. Even one serious incident may, however, constitute hostile environment harassment, such as an occurrence of sexual violence.

Both men and women are protected from sexual harassment, whether that harassment is perpetrated by a member of the same or opposite sex. Sexual harassment may be committed by a male or a female toward either a male or a female.

## Sexual Assault

Sexual assault is a form of sexual violence and is sexual contact or intercourse without consent. Specifically, sexual assault is an offense that meets any of the following definitions: rape (the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim), fondling (the touching of the private body parts including the genital area, groin, inner thigh, buttocks, or breast of another person for the purpose of sexual gratification, without the consent of the victim), incest (sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law), statutory rape (sexual intercourse with a person who is under the statutory age of consent; in Minnesota the age of consent is 16). *Sexual assault is also prohibited by Minnesota law. See Minnesota Statutes Section 609.341*

## Sexual Exploitation

Sexual exploitation is defined as taking non-consensual, unjust, or abusive sexual advantage of another. Examples include, but are not limited to (1) prostituting another person; (2) non-consensual video or audio-taping of sexual activity; (3) going beyond the boundaries of consent, such as knowingly allowing another to surreptitiously watch otherwise consensual sexual activity; (4) engaging in non-consensual voyeurism; or (5) knowingly transmitting or exposing a sexually transmitted disease (STD) or HIV to another person without the knowledge of the other person.

## Sexual Violence

Sexual violence is the most severe form of sexual harassment. Safety is of primary concern in situations of sexual violence. Under this policy it is defined as any actual, attempted, or threatened physical sexual act with another person without that person's consent. It includes, but is not limited to sexual acts perpetrated by force (expressed or implied), or duress, deception, or coercion upon the victim. It includes acts referred to as "date rape" or "acquaintance rape," and specially includes sexual acts involving a victim who is incapable of giving consent due to age, disability, or intoxication by alcohol or drugs. Sexual violence generally will constitute a crime punishable under Minnesota statutes. The use of alcohol or drugs never makes the victim at fault for sexual violence.

## Consent

Consent means conduct or words that indicate a person freely and voluntarily agrees to engage in a sexual act at the time of the act. A person must be of legal age to give consent. A person who is incapacitated cannot give consent. Consent to a prior sexual act does not imply ongoing future consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Silence, absence of resistance, or the failure to give a negative response does not imply consent. Consent can be withdrawn at any time.

The use of coercion, threat, or force takes away a person's ability to give consent. Sexual coercion is unreasonable pressure for sexual activity through words or circumstances that cause a person to reasonably fear that the other will inflict bodily harm. Force is the use of physical violence to gain sexual access, including threats, intimidation, and actual physical imposition.

## Consensual Relationships

Intimate or romantic relationships between employees, or between employees and students, even when within the bounds of acceptable Christian conduct, may nonetheless pose potentially serious moral, ethical, and legal concerns to the individuals and to the institution.

Where a power differential between the parties exists, even consensual relationships may constitute sexual misconduct if the effect of such a relationship interferes with an individual's academic or professional performance or if it creates an intimidating environment. Further, conflicts of interest or breaches of professional ethics may arise if one party to the relationship evaluates the work or academic performance of the other, during the relationship or even after it ends. This includes situations in which a faculty member teaches a student or employee with whom he or she has had a relationship.

Employees are cautioned that such relationships could potentially result in a sexual misconduct charge, and could result in the individual with the power in the relationship bearing the burden of responsibility.

The institution recommends that where such relationships develop, the individual in a position of authority notify his or her supervisor and that he or she surrenders responsibility for evaluation. Further, where an employee is called upon to supervise an individual with whom he or she has had a romantic relationship, he or she should discuss this with a supervisor. The institution discourages romantic relationships between faculty members and students, and discourages faculty members teaching students with whom they have or have had an intimate or romantic relationship.

## **Dating Violence**

Dating violence is a form of sexual violence and is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The relationship existence is determined based on a consideration of the following factors (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

## **Domestic Violence**

Domestic violence is a felony or misdemeanor crime of violence committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under Minnesota domestic or family violence laws, or anyone else protected under applicable domestic or family violence laws. See *Minnesota Statutes Section 518B.01*, [www.revisor.leg.state.mn.us/statutes/?id=518B.01](http://www.revisor.leg.state.mn.us/statutes/?id=518B.01)

## **Incapacitated**

An incapacitated person is a person unable to consent to sexual activities due to the use of alcohol or drugs impairing judgment, lack of consciousness, being asleep, developmental disabilities, or lacks full knowledge or information of what is happening. The use of drugs or alcohol by the accused is not a defense against allegations of sexual misconduct.

## **Stalking**

Stalking means to engage in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, distressed, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim. Stalking behavior includes, but is not limited to a person who (1) follows, monitors, or pursues another, whether in person or through any available technological or other means; (2) repeatedly makes telephone calls, sends text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues; (3) makes or causes the telephone of another repeatedly or continuously to ring; or (4) repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistive devices for people with vision impairments or hearing loss, or any communication made through any available technologies. See *Minnesota Statutes Section 609.749*, [www.revisor.leg.state.mn.us/statutes/?id=609.749](http://www.revisor.leg.state.mn.us/statutes/?id=609.749). A victim means a reasonable person under similar circumstances and with similar identities to the victim who suffers mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## **Terms**

### **Community Member**

Community member refers to Bethel's students, faculty, staff, visitors, volunteers, vendors, consultants, third parties, and any person that provides services to Bethel.

### **Complaint**

A complaint is an allegation that a student, employee or applicant for admission or employment has been subjected to unlawful discrimination or sexual misconduct.

### **Complainant**

A complainant is an individual or group of individuals who believe that unlawful discrimination or sexual misconduct may have or has occurred.

### **Compliance Officer**

Cara Wald, the University's Chief Human Resources Officer, serves as Compliance Officer with primary responsibility for oversight and enforcement of this Policy and procedures set forth herein. Cara Wald may be contacted at 651.635.8657 or [c-wald@bethel.edu](mailto:c-wald@bethel.edu).

## **Grievance Officer**

A grievance officer is a faculty or staff member or administrator appointed by the President who is trained to respond to formal and informal complaints of sexual misconduct.

## **Proceeding**

The term proceeding includes all activities, including but not limited to proceedings (both informal and formal), related to a non-criminal resolution of an institutional complaint, including: fact-finding investigations and formal or informal meetings. It does not include meetings between victims and officials regarding accommodations or protective measures.

## **Respondent**

A respondent is an individual or group of individuals against whom an allegation of sexual misconduct is made.

## **Responsible Officer**

A Responsible Officer is an administrator who, in partnership with the senior administrator as applicable, adjudicates the complaint.

## **Result**

A result is any initial, interim, and final resolution or decision by any official or entity authorized to resolve complaint matters within an institution. The result must include sanctions imposed. The result also must include the rationale for the result and the sanctions.

## **Retaliation**

Retaliation means any materially adverse action taken because a person has or is believed to have exercised rights in good faith regarding a sexual misconduct policy violation.

## **Title IX Coordinator**

The Title IX Coordinator is the administrator to whom a complaint is reported. The Title IX Coordinator ensures the complaint is addressed according to policy and procedures.

Cara Wald, the University's Chief Human Resources Officer, serves as Title IX Coordinator with primary responsibility for oversight and enforcement of this Policy, as well as identifying and addressing any systemic problems that arise during the review of complaints. Cara Wald may be contacted at 651.635.8657 or [c-wald@bethel.edu](mailto:c-wald@bethel.edu).

## **Conflict of Interest**

As soon as possible after a complaint has been initiated under this policy, the Title IX Coordinator will certify both to the complainant and to the respondent, that inquiry has been made concerning any potential conflict of interest and a written assurance will be issued to the parties that all persons involved in the investigation of the complaint have certified they are aware of no conflicts of interest that would prevent them from conducting an impartial investigation or consideration of the case. To the extent possible, grievance officers will not have supervisory oversight over a complainant or respondent. If the Title IX Coordinator has a conflict of interest, said officer will withdraw from the case and the duty to certify that there is no conflict of interest will be assumed by the appropriate responsible officer assigned to the case, or another person designated by the University President, such that both parties are assured that no person with a conflict of interest shall be involved in the investigation or consideration of the case.

## **Education, Prevention and Awareness**

Sexual misconduct is a significant issue on college and university campuses. In order to educate and hopefully eliminate sexual misconduct on our campuses, Bethel provides mandatory training to all employees and students regarding sexual misconduct. In general, this training covers what sexual misconduct is, how to prevent it, and most importantly where those affected can go for help. For Bethel, we believe this training is important because of who we strive to be as a community of believers, one that is safe and thriving to all. Some of this training is provided in an online format through training videos.

These training videos provide Awareness Programs and Primary Prevention Programs. Awareness Programs are specific programming for employees and students that contain initiatives and strategies to increase knowledge and share information and resources in order to prevent violence, promote safety and reduce perpetration. Primary Prevention Programs include Bethel's training videos that contain information on how

to stop dating violence, domestic violence, sexual assault and stalking through promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

The mandatory training videos also provide information on Bystander Intervention and Risk Reduction. With respect to Bystander Intervention, it is important to understand safe and positive options for individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault or stalking. Some options include: recognizing situations of potential harm; understanding institutional structures and cultural conditions that facilitate violence; overcoming barriers to intervene; identifying safe and effective intervention options; and, taking action to intervene. Risk Reduction serves to educate employees and students on options to decrease perpetration and bystander inaction and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

Bethel provides this training in an online format through links to four separate training videos: (1) Minnesota students, (2) Minnesota employees, (3) California students, and (4) California employees. Students should take the training for the state they reside in during the academic year. Employees and students living in a state other than Minnesota or California should take the Minnesota training and use the "Reference" tab for their state-specific information. Employees who are also students only need to take the employee training.

To access the training, visit the Office of Human Resources website.

In addition to the mandatory online training video, Bethel provides ongoing prevention and awareness campaigns regarding sexual misconduct. Ongoing Prevention and Awareness Campaigns are programming, initiatives and strategies sustained over time, focused on increasing understanding of topics, relevant to, and skills for addressing dating violence, domestic violence, sexual assault and stalking through a range of strategies. More specifically, Bethel distributes educational pamphlets on sexual misconduct and regularly trains study abroad leaders, confidential resources, first responders, campus security personnel, student life deans and resident directors on how to report, handle and respond to incidents involving sexual misconduct.

As employees and students, we all play an important role in this process. It is all of our responsibility to report sexual misconduct so those involved can get the help they need.

## **Reporting Sexual Misconduct**

If you have personally experienced any form of sexual misconduct, tell someone as soon as possible. Bethel understands that this is a difficult situation. All persons involved will be treated with dignity. Immediate notification, ideally within the first 24 hours after any sexual misconduct occurs, helps assure the preservation of evidence. Campus Security, at the discretion of law enforcement authorities, shall assist with the preservation of evidence which may be necessary for the proof of criminal sexual misconduct or to obtain a protection order. In an emergency, call 911 or call the Office of Security and Safety at 651.638.6400.

## **Reporting to Law Enforcement and Victim's Crime Bill of Rights**

In addition to and separate from addressing sexual misconduct concerns within the institution, complainants may notify or decline to notify local law enforcement. Bethel will give assistance to any complainant who requests help notifying law enforcement. For additional information about your rights when reporting a crime, visit the Minnesota Department of Public Safety for the [Crime Victim's Bill of Rights](#). A report to law enforcement is not necessary for Bethel to proceed with interim measures, informal procedures, or formal procedures.

## **How do I initiate Bethel's response and resolution process?**

In order to initiate Bethel's response and resolution process under this Policy, you or another person must notify the Title IX Coordinator. If a member of the Bethel community has a concern or has become aware of an instance of possible sexual misconduct involving a student, faculty or staff member, the Title IX Coordinator must be contacted immediately. You may also choose to remain anonymous and submit an online anonymous report: <https://www.bethel.edu/human-resources/complaints-concerns/submit-anonymous-report/>. This report is separate from initiating an informal or formal complaint through Bethel University.

## **What happens when reporting sexual misconduct also means reporting violation(s) of Bethel's standards for student conduct or other campus policies?**

When instances of sexual misconduct have been reported, Bethel's concern is focused solely on learning all that is possible about what happened. In order to have a full and thorough investigation, it is important that all facts are shared with the Grievance Officers, even if some of those facts involve disclosing violations of Bethel's standards for student conduct or other campus policies. It is important for complainants, respondents, and witnesses to know that they will not be disciplined in any manner, during or after the investigation, for reporting facts about the events that include violations of Bethel's standards for student conduct or other campus policies. Bethel's sole focus is learning everything possible about what happened during the incident so that a finding and resolutions can be reached.

## **Resources**

### **Sexual Assault Nurse Examination (SANE)**

Following a sexual assault, the most important concern is for the health, safety, and care of the person who has experienced sexual assault. As difficult as it can be, we strongly encourage students to seek medical assistance at the nearest hospital emergency room immediately following a sexual assault. A medical examination is vital for the health and well-being of the person who has experienced the assault and also serves to collect and preserve evidence. This specific type of medical examination is called a Sexual Assault Nurse Examination or SANE.

Individuals may go to the nearest hospital emergency room by themselves or with a friend. This will allow for confidentiality in the event the individual chooses not to make a report to the university or to the law enforcement. With the occasional exception of a few preventative medications, there is no charge for care related to sexual assault.

While the first inclination of an individual may be to take a shower, it's important to not wash, shower, bathe, douche, brush teeth; or to change, destroy or clean the clothes worn during the assault before having the exam. There is a limited window of time following an incident of sexual assault to preserve physical and other forms of evidence. It is important to bring a change of clothing if the individual goes to the hospital. It may be necessary for the nurse or law enforcement to keep the clothes worn during the assault. If an individual has already changed clothes, the articles of clothing that were worn can be brought in a paper bag.

These exams are completely confidential. The results are not given to the law enforcement unless the individual consents. Individuals are not required to report the assault to the law enforcement or to the university through this process, but if they choose to do so, the support staff at the nearest hospital emergency room will assist them in the reporting process.

## Support Services

It is strongly recommended that any individual involved in the resolution of a sexual misconduct complaint seek personal support through relationships with a few trusted family members or friends. Additional support is available through Counseling Services, Human Resources, or Campus Ministries. Bethel reserves the right to provide accommodations during the investigation process to create a safe and thriving environment.

## Interim Measures

Interim protective measures, such as changing the work, transportation, living or academic environment, will be considered immediately, regardless of whether the complainant chooses to report the crime to local law enforcement. Bethel will make information available to complainants on the right to seek orders for protection, no contact orders, or restraining orders.

Bethel will meet with the complainant and respondent to discuss any interim measures that are needed. Examples of interim measures are: referring the student or employee to appropriate resources for developing a safety plan, seeking medical attention or counseling, or seeking legal assistance; providing alternative housing, academic, or workplace arrangements; providing safety escorts to and from campus; modifying workplace or academic schedules or responsibilities; assisting with a leave of absence from work or school; screening phone calls; transferring harassing calls to Safety and Security; and removing the employee's or student's name from all directories.

At any time, the complainant or respondent can request an interim measure by contacting the Title IX Coordinator. At the request of the complainant, Bethel will provide a complainant who transfers to another postsecondary institution with information about resources for victims of sexual assault at the institution to which the complainant is transferring.

## Requests For Reasonable Accommodations

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

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

## Support Persons

The complainant and respondent are entitled to the same opportunities to have others present during a Bethel complaint proceeding, including the opportunity to be accompanied to any related meeting or proceeding by a support person of their choice. Any support person that accompanies the complainant or respondent to a meeting must sign a Support Person Agreement (See Addendum B), which stipulates the role of the support person.

## Confidentiality

All those involved in the process (complainant, respondent, witnesses, Responsible Officers, Grievance Officers, and others) are required to keep all information confidential, except as may be required by applicable law or court order. Medical and mental health professionals are generally required by law to protect confidential communications, unless he or she perceives an immediate or serious threat to a person or if there is an allegation of abuse to a person under 18 or a vulnerable adult.

## Governmental Recordkeeping

Under the Clery Act, Bethel is obligated to report annually sexual misconduct and issue a timely warning through the Office of Security and Safety. Any publically available notice or recordkeeping will keep the victim's name confidential and any identifying information will be protected to the extent reasonably possible to take appropriate preventative measures or to comply with applicable law.

In accordance with Minnesota's Sexual Harassment and Violence Policy statute, Minn Stat. §135.A15, all postsecondary institutions are required to annually report statistics on sexual assault to the Minnesota Office of Higher Education as well as to their campus community. Data privacy laws require that data be suppressed and noted if the number is fewer than 10 students. The Minnesota Office of Higher Education defines sexual assault as rape, fondling and statutory rape. It is important to note that this report has different definitions than Clery so the data from the two reports may differ. The Office of Security has made this report [viewable](#).

## Investigation Overview

Bethel shall train all Responsible Officers and Grievance Officers appointed by the President to assist Bethel in responding to informal and formal complaints of sexual misconduct. In addition to both male and female representatives, representatives will include members of staff and faculty from each of the schools to ensure an unbiased investigation. The Title IX Coordinator shall regularly review all currently trained and appointed Grievance Officers with the President and ensure their training is current.

Bethel shall provide a prompt, fair, and unbiased investigation and resolution. There are two procedures to consider for addressing sexual misconduct concerns, the Informal Complaint Procedure and the Formal Complaint Procedure. All proceedings of informal and formal complaints are confidential and will be documented. If at any point in the process, the complainant declines to provide information or declines to participate further in the complaint process, Bethel will review the matter based upon all of the information gathered. The complainant and respondent shall be simultaneously informed in writing of the outcome of any proceeding, right to appeal, any change in results that occurs prior to the time that such results become final and when such results become final.

## Informal Complaint Procedure

In the Informal Complaint Procedure, a complainant may discuss a sexual misconduct concern with the Title IX Coordinator without putting the complaint in writing. During this meeting, the Title IX Coordinator will provide the complainant with a copy of the policy, discuss the informal and formal complaint procedures, offer counseling or other support assistance, and discuss any interim measures that may be needed. A complainant has the right to access their description of the incident as it was reported to Bethel at any time. A complainant may elect to discontinue the informal complaint procedure and commence a formal complaint at any time. The informal complaint procedure will not be employed in cases of sexual assault.

If the complainant elects to move forward with the informal complaint procedure, the Title IX Coordinator will then notify the respondent of the informal complaint and set up a meeting to review the complaint with them. At this meeting the Title IX Coordinator will provide the respondent with a copy of the policy, discuss the informal and formal complaint procedures, and offer counseling, support assistance, and any interim measures that may be needed.

In order to promptly respond, the Title IX Coordinator shall attempt to complete the following procedure within ninety (90) calendar days of the date the complaint is received:

1. At least two (2) Grievance Officers, will meet with the complainant to understand the nature of the concern, collect any evidence, and obtain a list of witnesses. A written report of this meeting is completed and shared with the complainant for amendment.
2. The Grievance Officers will then meet with the respondent to understand the respondent's response to the complaint, collect any evidence, and obtain a list of witnesses. A written report of this meeting is completed and shared with the respondent for amendment.
3. The Grievance Officers will meet with any witnesses as necessary. A written report of each witness meeting is completed and shared with that witness for amendment.
4. The Grievance Officers will then meet with the complainant again to review any information gathered and to ask additional questions as needed.
5. The Grievance Officers will then meet with the respondent again to review any information gathered and to ask additional questions as needed.
6. The Grievance Officers provide a written summary of their recommended finding and resolutions to the Title IX Coordinator.
7. The Title IX Coordinator shares the Grievance Officers' finding and resolutions with the appropriate Responsible Officer(s) to determine the finding and resolutions.
8. The findings and resolutions are communicated to the complainant and respondent in writing.
9. If the parties agree, the resolutions are implemented and the informal process is concluded. If the parties do not agree upon a resolution, or at any time during the informal process, the complainant or respondent may initiate a formal complaint.

Whether or not the complainant files a formal complaint and/or the parties reach a resolution, Bethel may at its sole discretion initiate a formal investigation and take appropriate actions to attempt to fully resolve any harm that occurred and prevent any further harm.

## Informal Complaint to Formal Complaint Procedure

When either the complainant or respondent allege that the informal complaint procedures have failed to resolve the concern of sexual misconduct or are not possible or appropriate, they may file a formal written complaint with the Title IX Coordinator.

The formal complaint procedure begins with an initial meeting between the complainant and the Title IX Coordinator in which the Title IX Coordinator will provide the complainant with a copy of the policy, discuss the formal complaint procedures, and discuss the support assistance and interim measures available. A complainant has the right to access their description of the incident as it was reported to Bethel at any time.

The following outlines the steps and timeline for the formal complaint procedure when pursued after the informal complaint procedure has been started or completed:

1. Within ten (10) working days of receiving the written communication detailing the decision and resolution of the informal complaint, the complainant or respondent involved in the prior informal complaint, can submit a formal written complaint. The written complaint should describe in detail the alleged sexual misconduct and the action the complainant requests to resolve the matter. All written complaints must be signed and dated by the complainant and, where known, should contain the name(s) of the individual(s) involved, the date(s) of the event(s) at issue, a detailed description of the actions constituting the alleged sexual misconduct, and any other relevant information. If possible, names, addresses, and phone numbers of witnesses or potential witnesses and any other evidence should also be included. Any information submitted during the informal complaint process will be retained as part of the formal complaint process. However, the complainant must make known which portion(s) should be included in the formal written complaint as that information must then be provided to the respondent. Complainants are strongly encouraged to include in the written complaint a comprehensive account of all significant incidents that have caused them concern, whenever they may have occurred.
2. Within five (5) working days after receipt of the signed complaint, the designated Grievance Officers will review the complaint to determine if the complaint sufficiently describes the alleged sexual misconduct.
  - If the complaint does not sufficiently describe a concern within the definition of sexual misconduct under this policy, the complaint will be returned and other assistance may be recommended.
  - If the complaint does not sufficiently describe the factual details of the concern so that a determination of sexual misconduct can be made, the complaint will be returned and the complainant may submit an amended complaint providing enough factual details to allow a determination to investigate.
3. Within ten (10) working days of receiving a complaint or amended complaint, the Title IX Coordinator will notify the respondent that a formal complaint has been received and an investigation has begun. A copy of the written complaint and a copy of this policy will be provided to the respondent. At this meeting the Title IX Coordinator will discuss the formal complaint procedures and offer counseling, support assistance, and any interim measures that may be needed. The respondent will be offered the opportunity to provide a written response to the formal complaint. The response must be submitted to the Title IX Coordinator no later than 10 (ten) working days after receipt of the formal complaint. Respondents are strongly encouraged to reply in writing to the Title IX Coordinator to all specific incidents described in the complaint in a comprehensive manner.
4. Within the next ten (10) working days after receiving the respondent's written response, the Grievance Officers will meet with the complainant to review the nature of the complaint and identify the scope and nature of the investigation. The Grievance Officers will also meet with the respondent to review the respondent's response to the complaint, request names of witnesses, request evidence, and to review with the respondent the scope and nature of the investigation. A written report of each meeting is completed and shared with the individual being interviewed for amendment.
5. The Grievance Officers shall thoroughly investigate the complaint. Witnesses interviewed during the informal complaint process will be recalled as needed. Prior to completing the investigation, the Grievance Officers shall meet again with the complainant and the respondent separately to give an overview of the steps taken during the investigation, to ask the complainant and the respondent for the names of any others the investigators should speak with, and to request any additional information. A written report of each meeting is completed and shared with the individual being interviewed for amendment.
6. After completion of the investigation, the Grievance Officers shall meet with the Responsible Officer(s) and the senior administrator(s) responsible for the involved student, faculty or staff member to review the Grievance Officers' report and reach conclusion based on a preponderance of evidence (i.e., more likely than not standard) regarding the allegations and appropriate corrective action(s), if any.
7. It is the goal of these procedures that, to the extent possible, the above steps be completed within ninety (90) calendar days of receiving the formal complaint. The Responsible Officer(s) and senior administrator(s) shall forward to the complainant and respondent all of the following in a notice of outcomes letter:
  - a summary of the investigative report including the conclusion reached as to whether sexual misconduct did or did not occur with respect to each allegation in the complaint and the rationale for that conclusion,
  - a description of resolutions, if any, to resolve any sexual misconduct that occurred, and to prevent similar issues from occurring in the future, and
  - a description of the complainant's and respondent's right to appeal either the finding or the appropriateness of the corrective action(s).

## Formal Complaint Procedures

When informal complaint procedures are not possible or appropriate or fail to satisfactorily resolve the concern of sexual misconduct, the complainant may file a formal written complaint with the Title IX Coordinator. The formal complaint procedure begins with an initial meeting between the complainant and the Title IX Coordinator in which the Title IX Coordinator will provide the complainant with a copy of the policy, discuss the formal complaint procedures, offer counseling or other support assistance, and discuss any interim measures that may be needed. A complainant has the right to access their description of the incident as it was reported to Bethel at any time.

The following outlines the steps and timeline for the formal complaint procedure:

1. The complaint should describe in detail the alleged sexual misconduct and the action the complainant requests to resolve the matter. All written complaints must be signed and dated by the complainant and, where known, should contain the name(s) of the individual(s)



involved, the date(s) of the event(s) at issue, a detailed description of the actions constituting the alleged unlawful discrimination or sexual misconduct, and any other relevant information. If possible, names, addresses, and phone numbers of witnesses or potential witnesses and any other evidence should also be included.

2. Within five (5) working days after receipt of the signed complaint, the designated Grievance Officers will review the complaint to determine if the complaint sufficiently describes the alleged sexual misconduct.
  - If the complaint does not sufficiently describe a concern within the definition of sexual misconduct under this policy, the complaint will be returned and other assistance may be recommended.
  - If the complaint does not sufficiently describe the factual details of the concern so that a determination of sexual misconduct can be made, the complaint will be returned and the complainant may submit an amended complaint providing enough factual details to allow a determination to investigate.
3. Within ten (10) working days of receiving a complaint or amended complaint, the Title IX Coordinator will notify the respondent that a formal complaint has been received and an investigation has begun. A copy of the written complaint and a copy of this policy will be provided to the respondent. At this meeting the Title IX Coordinator will discuss the formal complaint procedures and offer counseling, support assistance, and any interim measures that may be needed.
4. Within the next ten (10) working days, the Grievance Officers will meet with the complainant to review the nature of the complaint and identify the scope and nature of the investigation. The Grievance Officers will also meet with the respondent to receive the respondent's response to the complaint, request names of witnesses, request evidence, and to review with the respondent the scope and nature of the investigation. A written report of each meeting is completed and shared with the individual being interviewed for amendment.
5. The Grievance Officers shall thoroughly investigate the complaint. Prior to completing the investigation, the Grievance Officers shall meet again with the complainant and the respondent separately to give an overview of the steps taken during the investigation, to ask the complainant and the respondent for the names of any others the investigators should speak with, and to request any additional information. A written report of each meeting is completed and shared with the individual being interviewed for amendment.
6. After completion of the investigation, the Grievance Officers shall meet with the Responsible Officer(s) and the senior administrator(s) responsible for the involved student, faculty or staff member to review the Grievance Officers' report and reach conclusion based on a preponderance of evidence (i.e., more likely than not standard) regarding the allegations and appropriate corrective action(s), if any.
7. It is the goal of these procedures that, to the extent possible, the above steps be completed within ninety (90) calendar days of receiving the formal complaint. The Responsible Officer(s) and senior administrator(s) shall forward to the complainant and respondent all of the following in a notice of outcomes letter:
  - a summary of the investigative report including the conclusion reached as to whether sexual misconduct did or did not occur with respect to each allegation in the complaint and the rationale for that conclusion,
  - a description of resolutions, if any, to resolve any sexual misconduct that occurred, and to prevent similar issues from occurring in the future, and
  - a description of the complainant's and respondent's right to appeal either the finding or the appropriateness of the corrective action(s).

## Sanctions

Depending on circumstances and the severity of the conduct, corrective action will vary. Resolution steps could include one or more of the following for students: counseling, advising or coaching from student life or campus ministry professionals, verbal or written warning, reflection paper, no contact order, continuing interim measures, behavioral probation, suspension, dismissal, or expulsion. For employees resolution steps could include one or more of the following: counseling, training, advising or coaching from a professional, verbal or written warning, loss of staff or faculty privileges, demotion, suspension, termination, or criminal prosecution. Sanctions may be imposed on an individual who knowingly provided false information or initiated in bad faith a claim of sexual misconduct.

## No Retaliation

Federal and state law, as well as Bethel policy, prohibits retaliation, threats of retaliation, suspension, or discharge against persons for raising good faith concerns regarding sexual misconduct. Any retaliatory conduct is subject to disciplinary actions.

## Appeal Rights

1. If the complainant or respondent allege procedural error has been made during the course of the complaint process; new evidence has surfaced that would affect the outcome of the case; the decision of the outcome was arbitrary or capricious; or the consequences were deemed excessive, the complainant or respondent may submit a written appeal to the University President, or his or her designee, within ten (10) calendar days of the receipt of the determination.
2. The appeal will be considered by a committee appointed by the President, or his or her designee, comprised of five (5) different Responsible Officers and/or Grievance Officers not involved in the formal investigation. The complainant and respondent may each propose one committee member for consideration.
3. Within thirty (30) calendar days after receipt of the appeal, the committee will meet to review and evaluate the investigative report and determination, reach its conclusion by majority vote, and communicate its conclusion in the form of an advisory recommendation to the President, or his or her designee. At the discretion of the committee, any party or witness may be asked to appear before the committee to clarify or supplement the record.
4. The President, or his or her designee, shall issue a decision in writing to the complainant and respondent within ten (10) calendar days of the receipt of the committee's recommendation. Such decision shall be Bethel's final decision in the case.

## Institutionally Directed Procedure

Regardless of whether a complaint has been received, Bethel may, at any time and at its sole discretion, initiate an investigation of or take action against any sexual misconduct occurring within the Bethel community. In the event that the complainant does not wish to pursue the complaint process, any response by the University may be hindered by the complainant's wishes for anonymity and/or inaction. In a case of sexual violence where a criminal investigation has been commenced by law enforcement authorities, the procedures outlined in this policy and stated timelines may be adjusted as reasonably required to avoid interference with the criminal justice process.

In these cases, the process begins with an initial meeting between the Grievance Officers and decision makers to clarify roles and expectations and be briefed on the concern(s) by the Title IX Coordinator. After that initial meeting, the general procedure below will be followed:

1. At least two (2) Grievance Officers meet with the parties involved, including witnesses, to further understand the nature of the concern and collect any evidence. A written report of each meeting is completed and shared with the person who was interviewed for accuracy.
2. The Grievance Officers provide a written summary of their recommended finding and resolutions to the Title IX Coordinator. Resolutions could be issued for individuals, departments, schools, or for the university as a whole.
3. The Grievance Officers meet and share their finding and resolutions with the appropriate Responsible Officer(s) who determine the finding and resolutions.
4. The findings and resolutions are communicated as needed to the parties involved. The Title IX Coordinator ensures that all resolutions are implemented.

*Note: Depending on the circumstances of the case and any obstacles encountered to a thorough investigation, the process and timing of the investigation may be altered at the discretion of the Title IX Coordinator, in consultation with the Grievance Officers and Responsible Officers.*

## Recordkeeping

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

The official records include:

- Intake records for complainant(s) and respondent(s) indicating that the Title IX Coordinator or the Title IX and Compliance Specialist met with the complainant and/or respondent(s) and the issues covered;
- In cases where the formal complaint is used, a copy of any written complaint;
- A description of any interim action taken and copies of correspondence from Title IX Coordinator or Title IX and Compliance Specialist to the complainant and respondent relating to the interim action;
- A copy of any Clery Act report submitted to Director of Campus Safety (Campus Safety shall maintain the original or a copy);
- Record indicating the support person(s) selected by the complainant(s) and/or respondent(s) and their signed agreements;
- Copies of any notices given to the complainant(s) and/or respondent(s);
- Investigative summary report and accompanying documentation compiled by the Grievance Officers;
- Copies of meeting summaries and addendums for complainant(s), respondent(s) and witness(es);
- Documentation indicating the decision reached and sanctions imposed;
- Copies of the notice of outcome letters provided to the parties;
- Appeal statement, if any; and
- Decision of appeal committee and copies of notices of outcome letters sent to parties regarding appeal, if applicable.

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

Records related to sexual misconduct reports and complaints will be treated as confidential and shared only on a need-to-know basis or as required by law.

Minnesota law, Minn. Stat. 135A.15, requires institutions to collect statistics, without inclusion of any personally-identifying information, regarding the number of reports of sexual assault received by an institution and the number of types of resolutions. Data collected for purposes of submitting annual reports containing those statistics to the Minnesota Office of Higher Education under Minn. Stat. 135A.15 shall only be disclosed to the victim, persons whose work assignments reasonably require access, and, at the victim's request, police conducting a criminal investigation. Nothing in this paragraph is intended to conflict with or limits the authority of Bethel University to comply with other applicable state or federal laws.

## Contact Information:

24-Hour Emergency

24-Hour Emergency On-Campus

Office of Security and Safety

651.638.6400

Office location: HC103

Cara Wald, Chief Human Resources Officer and Title IX Coordinator/Compliance Officer

[c-wald@bethel.edu](mailto:c-wald@bethel.edu)

Office: 651.635.8657

Cell: 612.709.4783

Office location: ANC530

Shaune Younkens, Title IX and Compliance Specialist

[s-younkens@bethel.edu](mailto:s-younkens@bethel.edu)

Office: 651.638.6992

Office location: ANC530

If any changes are made in the persons holding these positions, current information will be available on Bethel's website.

## Confidential Resources:

Counseling Services	Campus Ministries	Health Services
651.635.8540	651.638.6372	651.638.6215

Ramsey County

SOS Sexual Violence Services

651.266.1000

<https://www.ramseycounty.us/residents/health-medical/clinics-services/sos-sexual-violence-services>

## Anonymous Report Option:

An online anonymous report can be made at any time. This report is separate from initiating an informal or formal complaint through Bethel University. The online anonymous report may be accessed at: <https://www.bethel.edu/human-resources/complaints-concerns/submit-anonymous-report/>.

## Addendum A

### California Addendum

For Bethel students, employees, community members, and all others subject to this policy located in California, the following definitions based on California Statutes are substituted for the Minnesota Statutes referenced in the policy. California contact information is also included.

## Definitions

## Consent

Affirmative consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the respondent believed that the complainant consented to the sexual activity under either of the following circumstances:

- The respondent's belief in affirmative consent arose from the intoxication or recklessness of the respondent.
- The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented.

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the respondent believed that the complainant affirmatively consented to the sexual activity if the respondent knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- The complainant was asleep or unconscious.
- The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.
- The complainant was unable to communicate due to a mental or physical condition. See Cal Code Section 67386.

The use of coercion, threat, or force takes away a person's ability to give consent. Sexual coercion is the act of using pressure, alcohol, medications, drugs or force to have sexual contact against an another person's will or with another person who already refused. Force is the use of physical violence to gain sexual access, including threats, intimidation, and actual physical imposition. See Cal. Code Section 261.6.

## Dating Violence

Dating violence is a form of sexual violence and is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The relationship existence is determined based on a consideration of the following factors (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship. Dating relationship means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement independent of financial considerations. See Cal. Fam. Code Section 6210. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

## Domestic Violence

Domestic violence is felony or misdemeanor violence of abuse perpetrated against a spouse or former spouse, cohabitant or former cohabitant, person with whom the respondent is having or has had a dating or engagement relationship, a person with whom the respondent has had a child, a child of a party or a child who is the subject of an action under the Uniform Parentage Act, or any other person related by consanguinity or affinity within the second degree. See Cal. Fam. Code Section 6211; Cal. Code Section 273.5.

## Sexual Assault

Sexual assault is a term that covers a range of forcible and non-forcible sexual misconduct, including sexual battery, rape, and sexual coercion. Sexual battery is touching the intimate part of another person, with no consent for the touching or that the consent was fraudulently obtained, and that the touching was done for sexual arousal, gratification, or abuse. Rape is nonconsensual sexual intercourse that involves the use or threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Sexual coercion is the act of using pressure, alcohol, medications, drugs or force to have sexual contact against an another person's will or with another person who already refused. See Cal. Code Section 243.4.

## Stalking

Stalking means any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety. Stalking behavior includes, but is not limited to a person who (1) makes repeated, unwanted, intrusive, and frightening communications by phone, mail, or email; (2) repeatedly leaves or sends the victim unwanted items, presents, or flowers; or (3) follows or waits for the victim at places. See Cal. Code Section 646.9. This should generally be examined under a reasonable person standard in which a reasonable person under similar circumstances and with similar identities to the person affected suffers mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## Contact Information:

24-Hour Emergency

24-Hour Emergency On-Campus

Office of Security and Safety

651.638.6400

Office location: HC103

Cara Wald, Chief Human Resources Officer and Title IX Coordinator/Title IX Coordinator

[c-wald@bethel.edu](mailto:c-wald@bethel.edu)

Office: 651.635.8657

Cell: 612.709.4783

Office location: ANC530

Shaune Younkers, Title IX and Compliance Specialist

[s-younkers@bethel.edu](mailto:s-younkers@bethel.edu)

Office: 651.638.6992

Office location: ANC530

If any changes are made in the persons holding these positions, current information will be available on Bethel's website.

## Confidential Resources:

Counseling Services	Campus Ministries	Health Services
651.635.8540	651.638.6372	651.638.6215

San Diego County

Sexual Assault Response Team (SART)

- Center for Community Solutions (CCS) Rape Crisis Hotline: 888.385.4657
- Women's Resource Center (WRC): 760.757.3500

[http://www.sdcounty.ca.gov/hhsa/programs/phs/emergency\\_medical\\_services/sexual\\_assault\\_response\\_team.html](http://www.sdcounty.ca.gov/hhsa/programs/phs/emergency_medical_services/sexual_assault_response_team.html)

## Anonymous Report Option:

An online anonymous report can be made at any time. This report is separate from initiating an informal or formal complaint through Bethel University. The online anonymous report may be accessed at: <https://www.bethel.edu/human-resources/complaints-concerns/submit-anonymous-report/>.

## Addendum B

### Support Person Agreement

The purpose of the support person is to support an individual during the complaint process. A support person may be any person who is not a witness, such as a Bethel faculty or staff member, a family member, a close friend, an attorney or any other person. Support persons who are attorneys are subject to the same limitation on participation in the response and resolution process as other support persons. If a support person is an attorney, Bethel has the right to have its own legal counsel present for any meeting at which the attorney support person is present. As a support person, an individual must agree to the following provisions:

- A support person may accompany the individual to in-person interviews or other meetings during the complaint resolution process.
- Bethel University will not as a general matter, unnecessarily delay its processes to accommodate the schedules of support persons.
- A support person may not interrupt or otherwise delay the complaint process.
- A support person may not appear in lieu of the complainant or respondent or speak on their behalf either in-person or in written communication to Bethel University. A support person's only ability to communicate with the Grievance Officers would be if the complainant or respondent communicated their wish that the support person be added to the investigation as a witness.
- A support person may not communicate directly with the Title IX Coordinator, Title IX and Compliance Specialist, Grievance Officers, decision makers or any other school official involved in the complaint process.
- A support person may confer with the complainant or respondent, but must do so outside of the meeting area. The complainant or respondent must notify the interviewing Grievance Officers that they would like to confer with their support person and then step outside of the room to confer.
- A support person may have access to information concerning a case only when accompanying the complainant or respondent (for in-person access to information) or only when the complainant or respondent has given permission for the support person to be copied on emails or other correspondence. A support person's access to such information is subject to the same limitations as those placed upon the parties and conditioned upon the support person's agreement to maintain the confidentiality of any student education records or other confidential information.
- A support person may not use, copy, disclose, duplicate, redistribute, share, or provide access to any confidential information supplied during the complaint process whether the information is presented in hard copy, electronically or verbally., now or in the future. These confidentiality requirements will be in effect indefinitely.
- A support person may be disqualified or dismissed from the process by Bethel University for violations of confidentiality or other forms of interference with the complaint process.

I have read the above Support Person Agreement and agree to abide by all provisions.

\_\_\_\_\_

Name Printed

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

Revised 10/2017