Clery Act - Annual Security Report - Luther College

In 1990 the United States Congress passed legislation commonly known as the Campus Security Act. It is now known as the Clery Act. It directed campuses to compile and publish statistics about campus crime, and publish campus policies and practices related to safety and security issues. This report, as well as information in the Student Handbook, is published in compliance with that legislation. Since the original legislation, there have been changes in regulation and interpretation; the most notable is the Higher Education Amendments of 1998 and the reauthorization of the Violence Against Women Act in 2013. The regulations are complicated and sometimes confusing. The first section of numbered statements in this report is organized to be somewhat parallel with the order of legislated requirements. Following the statistics, there are some clarifications that will help interpret the statistics; readers are encouraged to inquire about this report and the federal regulations.

1. Reporting and Preparation. Students, or others, should make reports to either the Campus Security Office, the Residence Life Office (including residence hall staff), or the Student Life Office regarding crimes they witness or suspect, or in the event of any emergency.

   - Luther College, via the Student Life, Residence Life, or Campus Safety and Security offices, will advise the community when they become aware of criminal activity that is considered to be a threat to the immediate safety of the community. These timely warnings may be done via electronic alerts such as email, text message, postings, or other means of mass communication.
   - Annual crime statistics in compliance with the Clery Act are prepared annually, and distributed no later than October 1, by the Student Life Office, in cooperation with Campus Security, Residence Life, local police, and other campus offices that may have knowledge of criminal activity.
   - As noted above, criminal activity should be reported to Campus Safety and Security, Residence Life, or Student Life - or, the Decorah Police. Crimes may be reported on a confidential (not to be construed as anonymous) basis, requesting inclusion in the annual crime statistics, to the Student Life Office, Campus Pastors, or the Counseling Office staff. In this case, confidential reporting shall be defined as reports that are filed or verbally reported, and deemed to be legitimate, but for which no particular action is requested by the reporting party.

2. Facilities. Campus buildings are on a lock and unlock schedule set by Campus Safety and Security through each department or building. Residence halls have an electronic card access system, and are locked 24 hours/day. Residence Life staff are on duty in residence halls during evening and night hours. All other buildings are locked and unlocked by Security or building staff. Buildings are opened at predetermined times to accommodate their use by staff and students. Campus Safety and Security personnel check non-residential buildings are checked on a regular basis. These precautions cannot prevent all potential intruders from being in buildings, so students and staff should practice good
personal safety, assist in keeping locked doors closed, and alerting officials when there is suspicious activity.

- Campus Safety and Security staff checks lighting facilities on campus and offers suggestions for improved lighting or other safety needs. The campus community may contact Campus Safety and Security regarding such issues or students may contact the Student Senate’s Campus Betterment Committee.

3. Security and Law Enforcement

- The Luther College Campus Safety and Security Office is located on the main level of the Dahl Centennial Union. Security personnel may be reached by calling (563) 387-2111.
- Campus Safety and Security staff are campus security personnel, who are not deputized or have arrest authority. Although Campus Safety and Security and Student Life review reports of crimes, Luther does not have a fully investigative security staff; therefore members of the campus community might receive a more complete investigation of criminal activity when they report such activity to the local police who have more extensive investigative resources. The working relationship and communication with the local Decorah Police is good, and includes cooperation on investigations, etc. It also includes the discussion of "reportable" crimes for annual statistics.
- As noted above, the campus community is encouraged to report crimes to the above noted resources.
- Via copies of this report, professional campus counselors and pastors are encouraged, when they deem it appropriate, to inform persons they are counseling that the information they share may be confidentially used in the annual campus crime reports, if they desire. If they desire that, they should advise the counselors or pastors, who will then report the figures to the Student Life Office.

4. Type and Frequency of Programs

Students and staff are annually provided Student Handbook information and information related to the Clery (Campus Security) Act. Via this report, the community is encouraged to use common sense in safety and security practices, and report criminal and suspicious activity. The Campus Security and Security Office has a public bulletin board with safety and security information available, including the daily crime logs.

Luther College's New Student Orientation Program introduces students to personal safety information, including sexual violence. During the summer prior to arrival, students complete an alcohol education program, AlcoholEdu, and a healthy relationship, bystander intervention and sexual assault education program, Haven. Additionally, during New Student Orientation, students attend a program that focuses on consent in sexual situations and the Luther College Code of Conduct. Programs in the residence halls address community values and expectations and provide students information on available campus resources. Throughout the year, students have the opportunity to attend events and
programs that focus on issues of sexual violence and bystander intervention. A class session for students enrolled in PE 100: Fitness and Wellbeing covers healthy relationships, consent and bystander intervention. AlcoholEdu and Haven are required for passing PE 100.

All students receive an overview of the College’s policies on Student Sexual Misconduct, Alcohol and Other Drugs, and Discriminatory and Harassing Conduct at the beginning of the fall semester. This overview provides information on reporting crimes and violations of college policies. Additionally, returning students participate in an annual program addressing personal safety, sexual violence and bystander intervention.

Resident Assistants were trained on August 26, 2014 on the Student Policy on Sexual Misconduct and their role in both prevention and receiving reports of alleging violations of the aforementioned policy. Students received detailed information regarding the policy, confidential resources, and reporting expectations regarding their role.

The Luther College Hearing Board received training in relation to the Student Policy on Sexual Misconduct and their role in adjudicating formal complaints. The training included trauma-informed response, sexual assault examinations and detailed overview of consent (September 6 & 16, 2014).

Additional trainings were provided to the College’s Harassing Conduct Officers.

The College’s Title IX Coordinator recorded the following trainings and interventions, some of which are noted above:

**Luther College Title IX Compliance Timeline**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 6-7, 2014</td>
<td>Title IX Boot Camp and Investigator training for Title IX leaders (attorneys from Gray Plant Mooty)</td>
</tr>
<tr>
<td>Fall 2014</td>
<td>New hearing procedures and creation of Luther College Hearing Board</td>
</tr>
<tr>
<td>September 2014</td>
<td>Haven, an online program, added as mandatory part of Fit &amp; Well for all new students</td>
</tr>
<tr>
<td>September 6 &amp; 16, 2014</td>
<td>Training for Luther College Hearing Board</td>
</tr>
<tr>
<td>September 10, 2014</td>
<td>Training for Title IX leaders on drafting annual security reports (attorneys from Gray Plant Mooty)</td>
</tr>
<tr>
<td>October 2014</td>
<td>Title IX overview and reporting requirements presented at faculty division meetings and staff meetings</td>
</tr>
<tr>
<td>October 27, 2014</td>
<td>Training for confidential resources</td>
</tr>
<tr>
<td>October 30, 2014</td>
<td>Title IX Open House</td>
</tr>
<tr>
<td>November 3, 2014</td>
<td>Title IX compliance plan presented to President’s Cabinet</td>
</tr>
</tbody>
</table>
November 6 & 13, 2014  Training for Title IX investigators
November 13, 2014  Training for Title IX leaders on drafting a notice of determination (attorneys from Gray Plant Mooty)
November 19, 2014  Training for Title IX leaders on finalized regulations for the Campus SaVE Act (attorneys from Gray Plant Mooty)
November 20, 2014  Training for music department
December 9, 2014  Meet with Carl Crosby Lehmann of Gray Plant Mooty to discuss formal relationship
December 15, 2014  Title IX training for Admissions

Various groups or offices may offer additional safety and security notices and programs throughout the year.

5. **Crime Statistics** as required by this legislation are included in this report.

6. **Reporting Areas.** Luther does not have recognized student groups or organizations, residing as such, in the local community; hence there is no monitoring by local police of such groups. For the purposes of statistical crime reporting, reporting areas have been divided into four reporting areas: on campus, residence halls, non-campus, and public property. The on-campus area is comprised of all central campus property. Non-campus includes outlying property owned by the College but not utilized in direct support of the education mission.

7. **The Alcohol and other Drug Policy** is included at the end of this report. It is available in the Student Handbook.

8. **Alcohol and drug abuse education programs** are conducted primarily via the Lifetime Wellness Program. Statements of compliance with the Drug Free Schools and Communities legislation are included in the Student Handbook and employee staff manuals. A residence hall director is assigned a collateral assignment with the program to promote safe, responsible and legal use of alcohol. Programs can be passive poster campaigns, awareness programs such as Alcohol Awareness Month, or guest speakers. Collaboration on programs may occur with other campus departments such as the Student Activities Council.

Luther has adopted **Medical Amnesty** as part of its Alcohol and Other Drugs Policy.

Medical amnesty protects a student from policy violations when they are seeking help in an emergency. Medical Amnesty granted by the College for alcohol or drug sanctions will be granted to students who, in good faith, report, or experience themselves, an alcohol or drug emergency that requires acute emergency care (i.e. a transport to the emergency room).
However, a student will not be granted protection under this policy if campus officials (e.g., Residence Life Staff, Campus Safety and Security) intervene beforehand.

Medical amnesty is not viewed as an avenue through which a student may escape responsibility, but rather as an opportunity to reflect on their decision-making process related to their use of alcohol and/or drugs. The goal of amnesty is to increase student awareness of the risks of alcohol or other drug overconsumption and to reduce the instances that require acute emergency care.

The medical amnesty policy is designed to encourage students to seek help in an alcohol or drug emergency without hesitating because of worry about receiving policy violation sanctions from the College. This policy also applies to someone who has been a crime victim, who also may be intoxicated and therefore reluctant to report the crime. If in doubt about a person’s safety related to alcohol or drug use, seek help by calling Campus Safety and Security (563-387-2111) or 911.

Additionally, Luther has adopted a Good Samaritan exemption for students who may be in violation of alcohol and other drugs policy but who seek help for a peer.

Students are encouraged to immediately seek medical or security assistance for students whose health and wellbeing may be at risk due to the overconsumption of alcohol and/or drugs. Taking responsibility for helping a student in need will always be viewed positively in any post-incident follow-up, including those incidents where the “Good Samaritan” and/or the person needing emergency assistance may have violated the College’s alcohol and other drugs policy.

**Alcohol Educational Sanctions**

Luther College employs a tiered, educational response to alcohol violations. Students will, at minimum, be required to have a conversation about their decision to consume alcohol. Depending upon the magnitude of the incident, a student will be required to complete an online educational program, Alcohol E-Checkup. Students required to complete the E-Checkup are required to submit their certificate of completion to the Student Life Office. Beyond the E-Checkup, students may be required to have a meeting with a Student Life staff member to review and discuss their E-Checkup report. More extensive violations will require completion of a more extensive online alcohol program or complete an evaluation for substance use and/or abuse with a local provider. For marijuana violations, students complete the Marijuana E-Checkup.

9. **Sexual Violence Policy and Programs**
   - Luther’s Policy on Student Sexual Misconduct, provided at the end of this report, includes definitions of various acts of sexual and domestic violence and consent. Additionally, the policy provides information regarding reporting information, non-retaliation assistance, the process to make a complaint and the College’s response, including a sanction statement.
Luther College employs a preponderance of evidence standard in all of its disciplinary procedures, including those employed to resolve complaints of sexual violence.

Annual programs are provided during New Student Orientation regarding various aspects of sexual violence. Posters are prominently displayed regarding what to do in the event of sexual assault. A residence hall director is assigned a collateral assignment to support outreach and education efforts on sexual violence, healthy relationships and bystander intervention. Additionally, student groups also provide educational programming.

Students are advised via this statement, Student Handbook information, and posters, that they should report sexual assault as soon as possible, and not destroy any evidence of assault. Initial reports may be directed to: Student Health Services (x1045), Riverview Center Sexual Assault Resources (563-380-332), Domestic and Sexual Abuse Resource Center (800-383-2988), Hall Director or RA, Winneshiek Medical Center (382-2911), Decorah Police (382-3667).

Students are advised, via this document, personal discussions or documents, that they have the option to notify law enforcement authorities, and that the Student Life Office will assist them in that notification if they desire.

On-campus support services available for students include the Counseling Service, Student Health Services, College Ministries, Student Life Office, and Residence Life. They can also assist in making appropriate off-campus referrals (see Counseling Service website).

10. Sex Offender Registry. Information regarding the Iowa Sex Offender Registry program, and also information regarding local inquiries, may be found at the following website: http://www.iowasexoffender.com/

11. Missing Student Notification and Procedures

Federal law requires colleges to establish a missing student notification policy and related procedures for students who reside in on-campus housing. The Luther College policy follows:

I. Policy Statement on Missing Students

- Each student has the option to identify an individual to be contacted by Luther officials or law enforcement personnel no later than 24 hours after the time a student is determined missing (see below).
- Each student may register and update the identity of this individual, known as the Missing Student Confidential Contact, in the “update my profile” screen of my.luther.
- In the case of students who are under 18 years of age and not emancipated, Luther College is required by federal law to notify a custodial parent or guardian no later than 24 hours after the time a student is determined missing.
- Luther College officials will notify the appropriate law enforcement agency no later than 24 hours after the time a student is determined missing.
• If Luther Campus Safety and Security is notified of a potential missing student and makes a determination that the student has been missing for more than 24 hours and has not returned to campus, Luther will initiate the emergency contact procedures in accordance with the student’s designation. If Luther Campus Safety and Security has reason to believe the student is missing and endangered, the emergency contact process may be initiated prior to being missing for 24 hours.

II. Missing Student Confidential Contact

• Students may identify their contact by completing the “Missing Student Confidential Contact” section of the “Update My Profile” data entry screen of my.luther. The specific data entry statement follows:
  Missing Student Confidential Contact Information – You also have the option to designate an individual to be contacted in the event you are determined to be missing—by Luther officials or law enforcement personnel—for a period of more than 24 hours.
  Name ____________________________
  Phone __________________________

• * Note: If you are under 18 years of age and not emancipated, federal law requires that a custodial parent or guardian be contacted.

III. Procedure If You Believe a Student Is Missing

• Immediately notify a Residence Life staff member, Student Life staff member, or a Campus Safety and Security officer. A report will be filed with Campus Safety and Security and an investigation initiated.
• After investigating, Campus Safety and Security will make a determination as to whether or not the student is missing and has been missing for more than 24 hours.
• If the student is determined to be missing for more than 24 hours, Luther College officials will notify the Decorah Police Department and the student’s confidential contact (if the student has provided a confidential contact). If the missing student is under 18 years of age and not emancipated, Luther College officials will immediately notify a custodial parent or guardian.

12. Additional Safety and Security Issues

Although the Luther crime statistics give the impression of a relatively safe environment, there are certain precautions and advice to which any college student should pay attention. The following are not only general safety and security issues, but are based on Luther experiences.

• **Theft.** Crime statistics do not include general theft. Vulnerable items have included unattended **bicycles** (particularly high value bikes), **backpacks or book bags** left
unattended (particularly at the beginning or end of a semester). Although theft from rooms has been limited, virtually all thefts could have been prevented by a simple action—**lock your doors**!

- **Sexual Assault.** Although reports of stranger assault have been extremely limited, common sense dictates that walking alone at night or in isolated areas is not a good practice. Many cases of sexual abuse by acquaintances could be avoided by: good communication between individuals regarding sexual expectations, men and women practicing restraint in regard to alcohol use, and by peers practicing effective bystander interventions and looking out for their friends as they enter potentially high risk or poor judgment situations.

- **Residence Halls.** Respect your community by reporting strangers and by assisting to keep outside doors tightly shut and locked.

- **Vehicle Vandalism.** Vehicles can be subject to vandalism. Remember to lock vehicles and remove valuables. Report any vandalism to the Campus Safety and Security Office.

Campus Safety and Security is available 24 hours/day. A daily security log (including Security response to criminal activity) is posted in the Centennial Union, outside the Campus Safety and Security Office.

**Emergency (ambulance, fire, etc.)**
9-911

**Campus (Emergency calls only)**
563-387-2111

**Decorah Police**
563-382-3667

Please report any crime to Campus Safety and Security or your residence hall staff as soon as possible! (Written reports should be completed for all incidents.)

Questions may be directed to

Student Life Office
Luther College
Decorah, Iowa 52101
phone: 563-387-1020
Email: students@luther.edu
Annual Campus Crime and Fire Statistics Report (Clery Act)

This report includes statistics for the previous three years concerning reported crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by Luther; and on public property within, or immediately adjacent to and accessible from, the campus. The report also includes institutional policies concerning campus security, such as policies concerning alcohol and drug use, crime prevention, the reporting of crimes, sexual assault, and other matters. You can obtain a copy of this report by downloading this PDF or by contacting the Student Life Office.

Crime Statistics

Crime Statistics are tabulated in accordance with The Clery (Campus Security) Act.

Please see below notes and clarifications on crime statistics

<table>
<thead>
<tr>
<th>2014</th>
<th>On Campus</th>
<th>Non-Campus</th>
<th>Public Property</th>
<th>Residence Halls</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal Homicide</td>
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<td>na</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Negligent Manslaughter</td>
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<tr>
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<td></td>
</tr>
<tr>
<td>-Rape</td>
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<td>-Fondling</td>
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<td>-Statutory rape</td>
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<table>
<thead>
<tr>
<th>2013</th>
<th>On Campus</th>
<th>Non-Campus</th>
<th>Public Property</th>
<th>Residence Halls</th>
</tr>
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<tbody>
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<td>Criminal Homicide</td>
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<td>Robbery</td>
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<td>Hate Crimes</td>
<td>0</td>
<td>Na</td>
<td>0</td>
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</tr>
</tbody>
</table>

Notes and Clarifications on Crime Statistics

- Many crimes go unreported or unnoticed. Crime reports are recorded if official reports are filed and there is reason to believe they are valid. Reports do not suggest conviction, arrests, etc. Classification is based on definitions of UCR (Uniform Crime Statistics) and Iowa IBR (Incident Based Reporting).
- Readers are cautioned that statistics on this campus and others may be difficult to interpret. For example, burglary statistics may not reflect theft of valuable items unless there is unauthorized entry.
- Another category, sex offenses, includes reported "acquaintance rapes." A forcible sex offense is "any sexual act directed against another person, forcibly and/or against the person's will where the victim is incapable of giving consent." and includes forcible rape.
forcible sodomy, sexual assault with an object, and forcible fondling. Nonforcible sex offenses are acts of "unlawful, nonforcible sexual intercourse," and include incest and statutory rape.

- Discipline statistics in the report include numbers of students "referred for campus disciplinary action." This is confusing terminology, but a good faith effort has been made by the College to count the number of students who were likely violators of state law (underage) when they were referred to the discipline system.
- Hate crime statistics required by this legislation are to include offenses of criminal homicide, negligent manslaughter, sex offenses, robbery, aggravated assault, motor vehicle theft, arson, and other crime involving bodily injury "that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability." Some people interpret any sex offense as a hate crime; the reader is left to their own interpretation of federal law in this regard.
- Location definitions:
  - On-campus, non residence hall refers to crimes at campus locations other than residential units
  - Non-campus refers to off-campus properties/student residences (such as fraternity houses) over which the college has some control.
  - Public property refers to public property that may be directly connected or adjacent to campus property and could be considered to part of campus for security/safety purposes
  - Residence halls refers to campus residential units
Annual Fire Safety Report

Fire safety is an important issue on the Luther campus. The material contained in this report outlines the measures taken on campus to both prevent and respond to fires in our residence halls. This information is provided in response to the Higher Education Opportunity Act. The table below illustrates the type of fire safety system in each residential facility at Luther.

<table>
<thead>
<tr>
<th>Residence Hall</th>
<th>Fire Alarm Monitoring Done on Site</th>
<th>Partial Sprinkler System</th>
<th>Full Sprinkler System</th>
<th>Smoke Detectors</th>
<th>Fire Extinguisher Devices</th>
<th>Evacuation Plan Placards</th>
<th>Number of Evacuation Plans Each Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baker Village</td>
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<td></td>
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<td></td>
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Fire Safety Information

Policies and procedures related to fire safety are detailed in several documents including the Luther Code of Conduct, the Safety and Security website, and the Residence Life Handbook as well as City, State and Federal Laws. To ensure compliance with established fire safety policy and rules, Residence Life staff conducts official room safety inspections of the residence halls during each fall, winter and spring break. Inspections may be conducted at other times as well. Any prohibited or unsafe item will be confiscated and appropriate fines levied against those found in violation. For further information on fines and/or sanctions see the Residence Life section in the Student Handbook.

Prohibited Possessions

For health and safety reasons certain items are prohibited in the residence halls and other college-owned housing facilities. Prohibited items include, but are not limited to:

- Extension cords, multiple plug adapters, and surge protectors with more than 6 outlet
- Wireless routers
- Candles, incense, oil lamps, halogen torchiere lamps, spider lamps and open flames
• Smoking and illegal drug paraphernalia
• Flammable substances such as gasoline, lighter fluid, mineral spirits, and cleaning fluids
• Live Christmas Trees and/or live holiday greenery and large decorative bulbs
• Motorized vehicles such as motorcycles and mopeds.
• Fireworks, explosives, firearms, ammunition or gun powder.

**Electrical Appliances**
Some electrical appliances can create a fire or safety hazard and are not allowed in the residence halls. Prohibited items include:

- Toasters, toaster ovens, and George Foreman type grills
- Microwaves
- Space heaters
- Air conditioners
- Desktop burners and other appliances with an open hotplate or heat coil
- Electric blankets

Residents *are* allowed one refrigerator in each room if it is less than 3.2 cubic feet.

**Fire Evacuation Plan**
Residents are required to evacuate the building each time there is a fire alarm in the building. Planned fire drills will take place in each hall twice a year so residents will have an opportunity to practice evacuation procedures. Trained hall staff and/or Campus Safety and Security personnel conduct these drills. Whenever the fire alarm sounds complete evacuation is required. Never treat an alarm as if it is false or a prank. Walk to the nearest identified exit and leave the building. Close doors and windows as you exit if you can do so safely. If the identified stairway exit contains smoke, flames or strong fumes choose an alternative route. Continue evacuation even if the alarm stops sounding. Once you are outside the building move away from the structure to the designated evacuation waiting area. Remain in this area until authorized personnel inform you to return to the building.

If you see smoke and or fire and the alarm has not yet been sounded pull the alarm and follow the above evacuation procedures. Once you are safely out of the building contact Campus Safety and Security at x2111 to report the fire. If smoke is present stay low to the ground and check all doors for heat before opening them. If the door is hot to the touch choose an alternative exit.

Take the time to learn the location of fire alarm pull stations, fire extinguishers and evacuation routes prior to any emergency.

**Fire Safety Education and Training**
Residence Life staff, Campus Safety and Security, and other key campus personnel are trained in the operation of fire extinguishers on an annual basis. They are also trained and practiced in evacuation procedures. Residence Life staff includes fire safety information and evacuation procedures with residents as part of the orientation process. Written procedures for evacuation
are detailed in the Luther Emergency Procedure Guide and on line at https://www.luther.edu/safety/emergency/fire/.

**Fire Safety Log**

Campus Safety and Security maintains a fire log that includes the nature, date, time and general location of each reported fire. To ensure the accuracy of this log, every fire should be reported to Campus Safety and Security and the Residence Life Office. The logs below illustrate the reported fire incidents for the calendar years 2014, 2013 and 2012.

**Fire Incidents - 2014**

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Questions regarding this Fire Safety Report should be directed to Robert Harri, Director of Campus Safety and Security.

Bob Harri  
Director of Campus Safety and Security  
Luther College  
Decorah, IA 52101  
Phone: 563-387-2103  
Email: harrro01@luther.edu
Policy Statement on Alcohol and Other Drugs

Luther College takes seriously the abuse of alcohol and chemical substances. This includes the illegal use of alcohol, specifically alcohol consumption by individuals under the age of 21. As an educational institution, we place a great deal of responsibility on students who are of legal age to make the decision whether or not to consume alcohol and if they choose to consume alcohol, to do so responsibly. College students also have a great deal of freedom; however, with freedom comes responsibility.

The responsible student will:
• Make an informed decision on choosing to consume alcohol.
• Know, understand, and conform to federal, state, and local laws, and adhere to Luther College regulations on alcohol use.
• Assume accountability for one’s behavior (and those of guests) and accept the consequences for all actions.
• Not make alcohol the main focus in his/her activities. Consuming alcohol just to consume or get intoxicated is not responsible use.
• Not pressure other students to consume alcohol, whether directly or indirectly.
• Not pressure other students to engage in sexual activity when either or both of them have been consuming alcohol.
• Not behave in a way that is disruptive or otherwise harmful to self or others including times when this behavior is related to alcohol consumption.
• Show care and concern for students who use alcohol in a manner damaging to themselves or the community, and refer students to the Residence Life Office, Student Life Office, Counseling Service, or any faculty or staff member for additional assistance.

The ultimate definition of responsible personal use is left to the discretion of Residence Life staff. Only students who have attained the legal drinking age of 21 years may possess or consume alcoholic beverages in private living quarters (student rooms, apartments, etc.). Peer pressure to use alcohol will not be tolerated. When in possession of or consuming alcohol, no students under the legal drinking age may be present; in this situation, all students present are at risk of violating the alcohol policy.

Students should note that the possession of alcoholic beverage containers, either full or empty, may be taken as a presumption of use and possession, and as such, may be considered policy violations. Students may also be held accountable, even if they do not have actual possession of alcohol, when they are present at alcohol-related events; commit actions due to alcohol
intoxication; or are in “constructive” possession of alcohol (parallel to the Iowa Code on possession) or illegal substances.

Most alcohol policy violations are handled via Informal Administrative Hearings as outlined in the Luther Code of Conduct.

When, in the judgment of a staff person, a student is transported for medical attention or monitoring in response to alcohol or other chemical use, the involved student will be responsible for any costs incurred.

**II. Luther Code of Conduct: Statement on Drugs and Drug-Related Paraphernalia**

Any student found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary sanctions outlined in Article IV of the Code of Conduct: Use, possession, manufacturing, or distribution of marijuana, heroin, narcotics, or other controlled substances except as expressly permitted by law, including the use or possession of drug-related paraphernalia [Article III(B)(18)].

Students should be advised that local police authorities are involved with investigation and prosecution when illegal use or possession is suspected. The typical disciplinary action on campus will include one-year of social probation, educational sanctions, community service, fines, and/or a drug use assessment at the student’s cost. Eviction from the residence hall and suspension will also be considered. If a student is found to be selling drugs, or the evidence on campus suggests distribution of drugs to others, the college employs a “no tolerance” stance. The student will face eviction from the hall and probable suspension from the college.

**III. Luther Code of Conduct: Statement on Smoking and Smoking Devices**

Any student found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary sanctions outlined in Article IV of the Code of Conduct: Smoking of cigarettes, including e-cigarettes, cigars, and other forms of tobacco under the provisions of the Iowa Smokefree Air Act. This act prohibits smoking inside all buildings, outside all buildings, and on all college property including, but not limited to, sidewalks, parking lots and roads (and inside vehicles located on such grounds), athletic fields, and on any other college property. The possession of pipes, hookahs, and other smoking devices is also prohibited, as is the sale or distribution of tobacco products [Article III(B)(20)].

Luther College has long recognized that smoking is a serious health hazard. All members of the Luther community are asked to remind persons who are smoking that we are required to comply with the provisions of the Iowa Smokefree Air Act; the Act stipulates that the campus is entirely smoke-free. Persons who have been reminded and continue to smoke will be reported to Campus Safety and Security; a $50 citation may be given to individuals after adequate warning. Finally, students, faculty, and staff members may receive information on smoking-cessation programs from the Wellness Program Office.

**IV. Luther Code of Conduct: Statement on Alcohol**
Any student found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary sanctions outlined in Article IV of the Code of Conduct: Use, possession, manufacturing, or distribution of alcoholic beverages (except as expressly permitted by Luther College regulations), or public intoxication. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person under twenty-one years of age. This policy applies to behavior on Luther College premises or at Luther College sponsored or supervised functions [Article III(B)(19)].

The Code of Conduct broadly identifies prohibited behavior with respect to alcohol possession and/or use. Specific interpretations and policy situations with respect to the policy follow:

- The possession, consumption, or sale of alcoholic beverages at any campus event is prohibited. Further, no college or residence hall funds may be expended for the purchase of alcoholic beverages.
- The consumption of alcoholic beverages in the lounges, corridors, and other public areas of the residence halls, as well as in any other college buildings or on any college grounds, is prohibited.
- Students living in residence halls who have reached the legal drinking age in the state of Iowa are allowed to make their own decisions in relation to the possession and consumption of alcoholic beverages in their rooms. However, no kegs or amounts of alcohol in excess of personal use are allowed. Alcohol must be transported to living quarters in closed containers. When in possession of or consuming alcohol, no students under the legal drinking age may be present.
- Students are responsible for their own and their guests’ behavior at all times. The use of alcoholic beverages shall not impinge upon the freedom and rights of roommates, residents in neighboring rooms, and other students. All members of the Luther community should assume responsibility for referring persons who need assistance for alcohol-related problems to Student Life professionals. Disruptive, destructive, or illegal behavior related to the consumption of alcoholic beverages is subject to college disciplinary action and/or civil enforcement.
- The alcohol policy includes alcohol-related violations. Students may be held accountable, even if they do not have actual possession of alcohol, when they are present at alcohol-related events; commit actions related to alcohol intoxication (i.e. excessive noise, harassing or disruptive behavior, vandalism); or are in “constructive” possession of alcohol (parallel to the Iowa Code on possession).
- Possession of alcoholic beverage containers, either full or empty, may be taken as a presumption of use and possession, and as such, may be considered policy violations.
- If a student is found to be responsible for an alcohol or alcohol-related violation, sanctions will be enforced. The sanctions will be based upon the nature and severity of the violation, and range from minor to severe. With each offense, students are required to have a meeting with a Residence Life staff member, typically a hall director or area coordinator, to review alcohol policies and procedures; the R.A. may attend at the hall director’s discretion. Also, starting with the first offense, students are placed on residence hall probation, subject to a period of review of the violation of standards/policy to determine if the student will be allowed to remain in college.
housing. If the student does not then complete the disciplinary sanction, the staff member may recommend dismissal of the student from college housing or movement to another hall. Probation is assigned on a semester-by-semester basis with a minimum of one semester.

**Alcohol and alcohol-related violations include, but are not limited to, the following examples:**

- An R.A. confronts students in a room that is excessively noisy and finds students who are drinking. If any of them are underage, it is a clear alcohol violation. If the students are over 21, cooperate about providing IDs, and lower the noise level, it would normally be treated as a noise violation.

- There is a party going on in a room that overflows into the hall or cluster. The alcohol present exceeds "personal use" or there are open containers in the hallways.

- Public intoxication (staggering, slurring of words, vomiting, loss of bodily fluids, etc.).

- Permitting others (students or guests) to use assigned living quarters to consume alcohol in violation of the alcohol policy.

- There is vandalism or damage done to property or other people by a student who evidences alcohol use.

- A student harasses or is abusive to other students or college authorities and there is evidence of alcohol use.

- Promotion of events where alcohol is the primary focus.

- A staff member is present in any area of the residence hall and notices alcohol containers or paraphernalia, regardless if alcohol consumption has taken place.

- Use of false identification in order to consume alcohol and avoid detection by staff or security, or failure to provide identification when requested by a college official.

**V. Alcohol-Related Violations: Levels of Severity**

Alcohol and alcohol-related violations range from minor to severe. Three levels of violations are defined by Luther’s alcohol policy. The levels are highlighted below, including examples of prohibited behavior.

**Level 1 Violations**

- Display of alcoholic containers in living quarters by students who are underage.
- While underage, being in a room where alcohol is being consumed and not consuming him/herself.
- Possession of open container(s) in any public area of the residence halls (legal drinking age).
Level 2 Violations

• Possession of, hosting, or consuming alcohol while underage.
• Being in a room where alcohol is being consumed, not consuming him/herself, but this cannot be verified (underage); for example, conflicting stories: person claims he/she was not drinking, but someone else says that they were.
• Possession of open container(s) in any public area of the residence halls (underage).

Level 3 Violations

• Use of false identification to consume alcohol and keeping staff members from verifying legal age.
• Hosting, serving, and/or providing alcohol to person(s) who are underage.
• Disruptive behavior while consuming alcohol, which includes but is not limited to the following: verbal abuse directed towards a college official, physical violence, vomiting, loss of bodily functions or memory loss, unconsciousness due to excessive alcohol consumption, etc.
• Possession of large amounts of alcohol, such as a keg.

VI. Typical Sanctions for Alcohol-Related Offenses

First Offense.

A cumulative file is started at the point of the first offense, which will chronicle all alcohol-related violations during the student’s enrollment at Luther College. Violations will be considered on a year-to-year basis; however, the file will be available for review in determining sanctions in future years. The first offense usually results in a student being placed on disciplinary probation, plus sanctions noted below. Sanctions are at the discretion of the professional staff handling the offense.

Level 1 Violations

• 5 hours community service
• Other educational activities

Level 2 Violations

• $50 fine
• Mandate to attend a directed alcohol education program at student’s expense
• Other educational activities

Level 3 Violations

• $75 fine
• Referral to the Student Life Office, who will contact parent or guardian
• Mandate to attend an extensive alcohol education program at student’s expense
• Other educational activities
Second Offense.

The second offense includes a letter of continued probation with an added semester of probation. Sanctions are at the discretion of the professional staff handling the offense.

Level 1 Violations

- $50 fine
- 10 hours community service
- Other educational activities

Level 2 Violations

- $100 fine
- Mandate to attend an extensive alcohol education program at student’s expense
- Notification of parent/guardian, academic advisor, and cocurricular activity director
- Other educational activities

Level 3 Violations

- $150 fine
- Mandate to attend an extensive alcohol education program at student’s expense
- Notification of parent/guardian, academic advisor, and cocurricular activity director
- Decrease in housing priority or relocation
- Referral to off-campus psychological and alcohol/chemical abuse evaluation at student’s expense
- Other educational activities

Third Offense.

Student will have a conference with the Director of Residence Life or Student Conduct Coordinator. Sanctions are at the discretion of the professional staff handling the offense.

Level 1 Violations

- $100 fine
- 20 hours community service
- Other educational activities

Level 2 Violations

- $200 fine
- Notification of parent/guardian, academic advisor, and cocurricular activity director
- Mandate to attend an off-campus psychological and alcohol/chemical abuse evaluation and treatment program at the student’s expense
- Decrease in housing priority or relocation
- Other educational activities
Level 3 Violations

- $200 fine
- Notification of parent/guardian, academic advisor, and cocurricular activity director
- 20 hours of community service
- Mandate to attend an off-campus psychological and alcohol/chemical abuse evaluation at the student’s expense
- Residence hall dismissal
- Other educational activities

Fourth Offense.

Student will have a conference with the Director of Residence Life, the Student Conduct Coordinator, the Hall Director, or Area Coordinator. A fourth violation of the alcohol policy will typically result in removal from the residence halls.

VII. Alcohol and Other Drugs Policy for Student Groups Traveling Off Campus

Luther College is committed to maintaining a safe and healthy living and learning environment free from alcohol and chemical abuse. Students should understand the importance of maintaining a healthy environment within the student organizations to which they belong. When student groups represent Luther College at official college-sponsored activities off campus, or when students make visits as part of classes off campus (including study abroad programs), they have the responsibility of being positive individual representatives of the college. Whenever groups travel off campus, members should be reminded that they are seen as representatives of Luther College. Membership in student groups recognized by Luther College is a privilege, and each student’s actions reflect on our community.

The Luther Code of Conduct specifically outlines jurisdiction for conduct which occurs off campus. The Code of Conduct states: “The Luther Code of Conduct shall apply to conduct that occurs on Luther College premises, at Luther College sponsored programs and activities, and to off-campus conduct that adversely affects the Luther College Community and/or the pursuit of its objectives. Each student shall be responsible for his/her conduct from the time of initial visit as a prospective student through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment, even if his/her conduct is not discovered until after a degree is awarded. The Code of Conduct shall apply to a student’s conduct even if the student withdraws from school or is suspended while a disciplinary matter is pending. The Vice President and Dean for Student Life or designee shall decide whether the Code of Conduct shall be applied to conduct occurring off campus, on a case by case basis, at his/her sole discretion.”

With this in mind, the college encourages students to develop healthy habits and attitudes related to the use of alcohol and other drugs. Abstinence is always an appropriate option; moderation is acceptable if it does not violate either college policies or the law. The abusive, illegal, or irresponsible use of any drugs will not be tolerated.
It is the responsibility of students to be knowledgeable of the physical and mental effects of alcohol and other drugs and the risks associated with use. It is also the responsibility of students to be aware of other relevant college policies and federal, state, local, and international laws related to alcohol and other drugs use.

In the following policy, “group leader” is defined as the faculty or staff member responsible for the group, such as the instructor, advisor, coach, or music director. The group leader is expected to follow the same guidelines as the group.

**Off-Campus Alcohol and Other Drugs Policies and Procedures**

- The group leader of each student group will meet with the organization to clarify the approach the group will take on the use and abuse of alcohol and other drugs. This “Alcohol and Other Drugs Policy for Student Groups Traveling Off Campus” will be distributed to all members at that time.

- The following are minimum guidelines, to be followed by every student group that travels off campus. A group or a group leader could develop stricter guidelines for the group to follow. For instance, a group leader may decide that the activity is not compatible with alcohol or other drug use in any way, and may add that to the policy at his/her discretion. In like manner, the students may recommend this action to their group leader. In study abroad programs, these guidelines are subject to host nation laws and cultural customs as identified by the group leader.

- Underage drinking and drug use are illegal and will not be tolerated. Any member who provides alcohol to an underage person or is found to be in possession of illegal drugs will be subject to disciplinary action.

**Students who are of legal drinking age are expected to act responsibly and adhere to the following guidelines:**

- On the day of an activity, no alcohol or other drug use is permitted during or prior to a performance, event, or activity.

- No alcohol or other drug use is permitted on college vans, buses, or any other means of private transportation associated with the trip, event, or tour.

- Members of legal drinking age are expected to use good judgment if consuming alcohol at private homes, at group meals, or other settings during non-program hours.

- If a group spends the night in a hotel, it is incumbent upon each member to behave responsibly as representatives of the college. No abusive, illegal, or irresponsible use of alcohol and other drugs will be tolerated. Hotel management will be encouraged to deal with disruptive or illegal activities just as they would with other hotel guests, which may include police involvement.

- Members should help one another in dealing with alcohol and other drug abuse, and should discourage one another from drinking to excess. Members who have an alcohol or drug abuse problem should be encouraged to seek counseling and treatment.
Procedures for Off-Campus Alcohol or Other Drugs Violations

For alcohol and/or other drug violations occurring off campus, two separate student conduct processes may be used—either individually or in combination—to address alleged policy violations.

• The student conduct procedures as outlined in the Luther Code of Conduct may be initiated once the student returns to campus and/or, the group leader may, upon discussion and an Informal Administrative Hearing (as specified in the Code of Conduct), immediately impose one or more of the following sanctions at his/her discretion, independent of other college judicial proceedings.

• The student may be suspended from participation in one or more activities during the travel period.

• The student may be immediately dismissed from the tour or event, and may have to travel home at his/her own expense. Underage or illegal use of alcohol or other drugs are grounds for such dismissal.

• The student may be suspended from the group for a specific time period, after returning from the event.

• Other educational sanctions as determined by the group leader, in conjunction with above sanctions.

• The Vice President and Dean for Student Life or his/her designee, and/or the student’s parents, may be contacted about the incident, either at the time of the event or upon return to campus.

VIII. Medical Amnesty

Medical amnesty protects a student from policy violations when they are seeking help in an emergency. Medical Amnesty granted by the College for alcohol or drug sanctions will be granted to students who, in good faith, report, or experience themselves, an alcohol or drug emergency that requires acute emergency care (i.e. a transport to the emergency room). However, a student will not be granted protection under this policy if campus officials (e.g., residence life staff, campus safety) intervene beforehand.

Medical amnesty is not viewed as an avenue through which a student may escape responsibility, but rather as an opportunity to reflect on their decision-making process related to their use of alcohol and/or drugs. The goal of amnesty is to increase student awareness of the risks of alcohol or other drug overconsumption and to reduce the instances that require acute emergency care.

The medical amnesty policy is designed to encourage students to seek help in an alcohol or drug emergency without hesitating because of worry about receiving policy violation sanctions from the College. This policy also applies to someone who has been a crime victim, who also may be intoxicated and therefore reluctant to report the crime. If in doubt about a person’s safety related to alcohol or drug use, seek help by calling Campus Safety and Security (563-387-2111) or 911.
1. Students may be required to participate in an appropriate alcohol educational program depending upon their involvement in the situation. Failure to comply will invalidate protection under this policy.

2. Records kept as a result of this policy shall not be noted on the student’s conduct record as a policy violation. Students involved may still need to meet with residence life staff or other College officials for a review of the incident, but this meeting will not result in disciplinary sanctions from the College.

3. This policy does not preclude disciplinary action regarding other violations of College policy, such as causing or threatening physical harm, sexual violence, damage to property, harassment, hazing, etc. Students should also be aware that this policy does not prevent action by local and state authorities.

4. Nothing in this policy shall prevent an individual who is obligated by state or federal law to do so from reporting, charging or taking other action related to the possible criminal prosecution of any student.

**Good Samaritan Statement**

Students are encouraged to immediately seek medical or security assistance for students whose health and wellbeing may be at risk due to the overconsumption of alcohol and/or drugs. Taking responsibility for helping a student in need will always be viewed positively in any post-incident follow-up, including those incidents where the “Good Samaritan” and/or the person needing emergency assistance may have violated the College’s alcohol and other drugs policy.
Policy Statement on Student Sexual Misconduct and Interpersonal Offenses

Luther College is committed to creating and maintaining a safe and healthy environment where all members of the community—students, faculty, staff, and visitors—are treated with respect and dignity. Therefore, the college will not tolerate sexual misconduct in any form. Sexual misconduct is not only an act against an individual; it is also an act that affects the entire college community. Acts of sexual harassment, sex offenses, stalking, dating violence and domestic violence are inconsistent with our educational mission.

Maintaining a safe environment requires that any sexual behavior be consensual. Special emphasis is placed on violence prevention, providing support to those who may have been victimized, and ensuring enforcement of institutional policy and law. The College seeks to balance the rights, needs, and privacy of those students who may have been victimized, as well as those students who have been accused, while maintaining the health and safety of the campus community.

This policy describes prohibited conduct in which a Luther student is involved, including sexual harassment, sex offenses, stalking, dating violence and domestic violence; identifies resources and support provided to survivors; establishes procedures for reporting alleged incidents; and articulates the College’s commitment to preventing violations and responding appropriately when incidents do occur. This policy is an elaboration of the Luther Code of Conduct. Violations of this policy are violations of the Luther Code of Conduct and are subject to the same jurisdiction, regulations, conduct procedures and sanctions as described in the Code of Conduct and/or highlighted below.

The College does not tolerate sexual harassment, sex offenses, stalking, dating violence and domestic violence, regardless of whether the individual engaged in the offensive behavior is a student, faculty member, staff member or visitor to the campus. These behavioral expectations and core values are consistent across the College. However, the College has distinct policies and procedures for the investigation, resolution and remedying of complaints, depending on whether the accused is a student (this policy applies), a staff member (Professional Conduct Policy, Staff Handbook), or a faculty member (Professional Conduct Policy, Faculty Handbook). These policies are also available in the Faculty and Staff Handbooks or by contacting a Harassing Conduct Officer. Complaints against non-community members (e.g., visitors to the campus, returning alumni, etc.) should be reported to the Safety and Security Office, who will investigate the incident. Appropriate action, including banning the individual from College property where appropriate, will be implemented.

Luther College encourages students who believe they have experienced sexual harassment, sex offenses, stalking, dating violence and domestic violence to report incidents to appropriate College authorities as described in part IV of this policy. Perpetrators will be subject to strict disciplinary action by the College, up to and including suspension, expulsion, or other appropriate sanctions. Retaliation against an individual who in good-faith brings a complaint, participates in an investigation or hearing related to allegations, or pursues legal action is prohibited and will not be tolerated.
This policy applies to conduct that occurs on Luther’s campus or property and in all College programs and sponsored activities. Non-community members (guests, alumni, vendors, parents, etc.) visiting our campus or participating in College programs or events are also expected to abide by the behavioral expectations set forth here. Conduct that occurs off-campus and not in connection with College programs may violate this policy if the conduct creates a threatening or hostile environment on campus or within a College program, or if the incident causes concern for safety or security of the College’s campus.

This policy applies to the individual behavior of students and the collective behavior of student organizations.

This policy applies to sexual and gender-based harassment (including harassment based on sexual orientation), sex offenses (including sexual exploitation), stalking, domestic violence, and dating violence. Please see the College’s Discriminatory and Harassing Conduct Policies and Procedures for the College’s policy on other forms of discriminatory or harassing conduct.

II. Definitions

Luther College’s policy provides the following definitions for purposes of clarity and navigation of the policy. This policy uses the term “sexual misconduct” to refer to all forms of inappropriate sexual communication or behavior, including that which takes the form of sexual harassment, stalking, non-consensual sexual activity, sexual exploitation, dating violence, and intimate partner violence (defined below). This policy also uses the term “complainant” to refer to a person who is the victim/survivor of a violation of this policy and the term “respondent” to refer to a person accused of committing a violation of this policy.

- Sexual Harassment
- Stalking
- Non-consensual Sexual Activity
  - Non-consensual Sexual Contact
  - Non-consensual Sexual Intercourse
- Sexual Exploitation
- Dating Violence
- Domestic Violence
- Consent

A. Harassment

Sexual harassment refers to unwelcome sexual or gender-based conduct. When sexual harassment becomes so severe or pervasive as to interfere with an individual’s ability to work, learn or participate in the College’s programs, it is called a sexual or gender-based “hostile environment”. Harassing conduct can occur in various forms. The following list provides examples of the kind of behavior that may be harassing.

*Verbal* — such as vulgar or lewd statements, gender-based name-calling, sexually suggestive or graphic comments, or comments that demean a person because of his or her gender.
Physical — such as unwanted rubbing of a person’s back, neck, buttocks or thighs, pinching, sexual gestures, or sexual intimidation through physical means.

Visual — such as exposing another person to unwanted pornographic magazines or videos, or displaying suggestive or lewd pictures.

Communication-based — such as sexually graphic, threatening or vulgar phone calls, social media, email, text messages, chats or blogs.

Or any combination of these.

A determination as to whether a hostile environment has been created depends on the totality of the circumstances, such as the severity of a particular incident, the context in which it occurred, whether the conduct was repeated, whether the conduct was verbal or physical, and whether it was threatening or merely annoying. Luther College reserves the right to discipline offensive conduct that is inconsistent with community standards even if it does not rise to the level of a hostile environment as defined by applicable law. Further, the College encourages students and others to report incidents that concern them even if the incidents are not particularly egregious, as early reporting assists the College to address and correct situations before they become so severe or pervasive as to create a hostile environment.

Luther College also prohibits “quid pro quo” harassment. “Quid pro quo” (or “this for that”) harassment occurs when a person in a position of authority or control links the receipt of some benefit (such as a grade, or the ability to join a group or participate in a program) to another’s submission to unwelcome sexual advances or sexual conduct or requires the other to perform or submit to demeaning or degrading sex or sexually-charged acts. “Quid pro quo” harassment can be expressly stated, but it also can be implied by words, actions or the surrounding circumstances. Examples of “quid pro quo” harassment include:

- The leader of a student organization permits a student to join the group only if the other student allows the leader to watch the student engaged in a sexual act.
- A student in a position of authority disciplines or fires another student who refuses sexual advances or ends a romance.

The above definitions and explanations are provided for educational and illustrative purposes. A person reporting an incident of concern need not worry about which category of sexual misconduct applies to the situation or whether all elements of a particular definition of misconduct have been met. An individual reporting an incident of concern is expected only to relay the facts in good-faith; College representatives trained in responding to sexual misconduct will assist the complainant in determining whether the incident may constitute a violation of this policy. Students should never feel pressured to engage in sexual relationships or activity of any kind with any Luther College faculty or staff member. In fact, Luther College faculty and staff are prohibited from engaging in a dating, romantic, or sexual relationship with students who are currently enrolled in their courses or who are under their direct supervision in any way. While not strictly prohibited in other situations, any romantic relationship or interaction between
faculty or staff and a student is strongly discouraged. If a student believes that a faculty or staff member is behaving in an inappropriate way, the student should report the situation immediately.

B. Stalking

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. Stalking includes, but is not limited to, repeatedly engaging in contact, face-to-face communication, via social media, telephone calls or messages, text messages, emails, letters, the giving of unwanted gifts, threatening or obscene gestures, surveillance, following, trespassing or vandalism.

C. Identifying Harassment in the Community

Luther College is a vibrant academic environment that encourages discussion of competing ideas both inside and outside the classroom and in both formal and informal settings. Some topics may make a person uncomfortable or take a student outside his or her comfort zone. This policy is not intended to ban debate over socially controversial ideas or issues. Rather, it is intended to protect individuals from being subjected to offensive, humiliating or intimidating sexual or gender-based conduct that has no merit in or relevance to the academic setting.

As an example of this distinction, the policy would not prohibit debate concerning the advantages and disadvantages of various religious or social systems’ approach to the rights of men versus women, even if some students disagreed with others’ views and were offended by statements made. Similarly, this policy would not prohibit controversial figures from speaking on campus even if the individual’s viewpoint or speech were offensive to some, nor would this policy prohibit artistic freedom of expression. However, this policy would prohibit a student from yelling obscenities at women as they passed his dorm window. Likewise, this policy prohibits one student from using sexually demeaning language to refer to another student.

D. Non-Consensual Sexual Activity

Non-Consensual Sexual Contact (or attempts to do the same)

Non-consensual sexual contact refers to any intentional sexual touching, however slight, with any object or body part by a person upon another person without consent. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner. Non-consensual sexual contact also includes any disrobing of another or unwelcome exposure from one person to another without consent.

Non-consensual Sexual Intercourse (or attempts to do the same)

Non-consensual sexual intercourse refers to any sexual penetration or intercourse (anal, oral or vaginal), however slight, with any object or body part, by a person upon another person without
Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

E. Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Non-consensual Sexual Contact or Non-consensual Sexual Intercourse. Examples of sexual exploitation include, but are not limited to:

• Sexual voyeurism (such as watching a person undressing, using the bathroom or engaging in sexual acts without the consent of the person observed).

• Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without or beyond the limits of the photographed person's consent).

• Sexual Exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection; includes administering alcohol or drugs (such as “date rape” drugs) to another person without his or her knowledge or consent; and acts of incest.

• Fee for services (such as collecting financial payments collected for the purpose of sexual acts).

F. Dating Violence

Dating violence refers to violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim/survivor and where the existence of such a relationship shall be determined based on a consideration of factors that include the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship. This violence can occur in opposite-sex or same-sex relationships.

G. Domestic Violence

Domestic violence refers to physical violence between spouses or former spouses, cohabitating romantic partners or individuals who were formerly cohabitating romantic partners, individuals who share a child in common, or others in a family relationship.

H. Consent

Consent is knowing, voluntary and clear permission by word or action, by all participants to a sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the
activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the individual respondent of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of the sexual interaction). This policy also covers a person whose incapacity results from mental disability or physical restraint.

Consent can’t be given in situations where force was used to gain sexual access. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation and coercion that overcome resistance or produce consent.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Past consent to engage in sexual activity cannot be presumed to be consent to engage in sexual activity in the future. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

Please recall that no person who is underage can ever consent to sexual activity of any kind. Therefore, sexual contact with or behavior toward a minor is prohibited. The age of consent in Iowa is 16. However, federal law criminalizes certain activity (even if consensual) with a person under the age of 18. A person engaging in sexual activity is responsible for ensuring that his/her sexual partner is of legally consenting age. Any sexual contact or activity with a person under the age of consent is necessarily non-consensual for the purpose of this policy and the law. Any person who believes that any minor may have been abused or subjected to sexual behavior or content of any kind on our campus or by one of our students or employees should report the situation immediately.

III. Non-Retaliation Assurance

A. Amnesty

To remove barriers to reporting, the College will not pursue potential policy violations of the complainant that may have occurred in the context of an alleged violation of this policy (for example, Policy on Alcohol and Other Drugs). Conversely, the use of alcohol or other drugs will never function as a defense to a violation of this policy.
B. Retaliation

Students have the right to report violations of this policy and participate as a witness in an investigation or hearing without fear of retaliation. Retaliation includes threats, intimidation, or reprisals. For example, it would be retaliatory to intimidate a witness or to shun a person from a student organization in retribution for the person having made complaints. It would also be retaliatory to use social media as a means to negatively influence the reporting student or witnesses.

Luther College strictly prohibits retaliation by any student against a person who makes a report, assists someone with a report, or participates in any aspect of the investigation or resolution of a report.

Acts of retaliation by students are subject to the standard disciplinary procedure set forth in the Code of Conduct and, in certain cases, may result in suspension. Acts of retaliation by other members of the community, such as faculty or staff, are subject to sanction as set forth in the respective Student, Faculty or Staff Handbooks.

IV. Making a Complaint and the College’s Response

Law Enforcement: Any person may call 911, the Decorah Police Department (563-382-3667) or College Safety and Security Office (563-387-2111) for immediate safety assistance. If you or someone else needs help, call for immediate assistance. An individual who has been the victim of the crime is encouraged to, but is not required to, make a criminal complaint with the Decorah Police Department. A complaint to the Decorah Police Department results in a criminal investigation to determine if criminal charges will be filed. Any student who wishes to have support or assistance in filing a criminal complaint should contact the Safety and Security Office, and a College security officer will provide assistance.

A delay in reporting could hinder prosecution at a later time. Therefore, students are encouraged to make a report as soon as possible. In criminal cases, the preservation of evidence is critical and must be done properly and promptly. For example, in cases of rape or other forms of sexual assault, it is important not to shower, change clothes and even brush your hair, as physical evidence may be lost. In cases of violence or physical abuse, it is important to document injuries, including by taking photographs.

The College disciplinary process and the criminal process are not mutually exclusive. This means that an individual may pursue both complaint avenues at the same time, and students are encouraged to do so for any act of sexual misconduct that may constitute a crime. If appropriate, the College may postpone temporarily its proceedings so as not to interfere with law enforcement. Additionally, orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence by another person. Luther will abide by all legally issued orders of protection, including denying the restricted person access to Luther’s property.
On Campus “Mandatory Reporting” Resources: An individual may make a complaint to one of the Mandatory Reporting Sources listed below. If the complaint is made verbally, the Complainant may or the Mandatory Reporting Source will follow up with a written complaint document. The College will take responsive action, which may include discipline of the offending student (e.g., suspension, expulsion and so on) in accordance with the College’s internal disciplinary procedures according to the procedures listed below.

The following mandatory reporting individuals and offices are specially designated by the College to receive complaints of misconduct and are equipped to follow up on allegations. The College encourages reports to be made directly to the following individuals or offices. These individuals and offices will respond to allegations with respect for the privacy of those allegedly involved in the incident, to the extent possible while still responding appropriately to the allegations:

Harassing Conduct Officers: Andrew Bailey, Main 119, x1697; Marty Berg, Dahl Centennial Union 204, x1289; Mark Johns, Campus House 105, x1347; Kathryn Reed, Jenson-Noble 171, x1315.

Title IX Coordinator (Director of Human Resources), Main 25, x1134

Student Life Office (Deans and Student Conduct Coordinator), Dahl Centennial Union 266, x1020

Hall Directors/Area Coordinators/Resident Assistants, residence halls

Residence Life Office, Dahl Centennial Union 124A, x1330

Safety and Security Office, Dahl Centennial Union 129, x2111 (24 hours, seven days/week)

Because the College takes allegations of sexual misconduct very seriously, we expect faculty and staff to report all allegations to the Title IX officer. However, if a complaint is made to another individual or office, the Complainant risks the possibility that the alleged Code of Conduct violation will not come to the attention of proper College officials and may, therefore, not be acted upon. Individuals with complaints are therefore encouraged to report directly to one of the Mandatory Reporting Sources above. An individual may make a report to a Mandatory Reporting Source and request that the College take no investigatory or disciplinary action. The College endeavors to comply with complainants’ wishes with respect to whether responsive action is taken. However, that is not always possible. If a complainant requests that no action be taken against the accused (i.e., no investigation or disciplinary action), the College decision as to whether the request can be granted will depend on the seriousness of the offense, whether there was a single accused or multiple in the incident, whether there is reason to believe that the accused has engaged in this or similar conduct previously, whether the circumstances suggest an ongoing or future risk to the campus community or the complainant, and similar considerations. A decision will be made and shared with the complainant.

Similarly, a complainant may desire to have investigatory and/or disciplinary action taken, but may wish to have his/her identity as the complainant kept confidential. Depending on the
circumstances, this may or may not be possible. If any number of people could have reported the incident, it may be possible for the complainant’s identity to remain confidential and not shared with the respondent. However, in other cases, it may not be possible to proceed with investigatory or disciplinary action without revealing the identity of the complainant. If a complainant requests that his/her name be kept confidential (or if the complainant makes an anonymous complaint), the College’s ability to respond to the complaint may be limited. The appropriate administrators will discuss the situation and the complainant’s request for confidentiality, and a decision will be made and shared with the complainant.

The College retains the right to act upon any information that comes to its attention. *A complainant who desires emotional support only in a confidential setting is encouraged to contact one of the confidential resources listed below.*

**B. Confidential Resources.** Students may wish to seek confidential counseling or support.

**On Campus Confidential Resources:** The following on-campus individuals are designated as confidential resources; they will seek to maintain information received as private and will not share confidential information with College officials or others, unless required to do so by law. This means that information shared with these individuals does not result in an investigation or remedial action. A student who wishes to have the College take responsive action should make a report to a Mandatory Reporting source (see above):

- Campus Pastors/Catholic Chaplain, College Ministries, Center for Faith and Life, x1040
- College Licensed Mental Health Counselors, Counseling Service, Larsen Hall, x1375
- College Nurses/Physicians, Health Service, Larsen Hall, x1045

**Decorah Area Confidential Resources:** Students may also choose to seek out confidential counseling or support off campus. Information shared with these resources is not reported to the College. Resources include:

- Winneshiek Medical Center, 901 Montgomery St., Decorah, 563-382-2911
- Riverview Center Sexual Assault Hotline, 563-380-3332
- Decorah Police Department, 400 Claiborne Dr., Decorah, 563-382-3667

**C. Timeframe for Making a Complaint:**

While there is no time limit for bringing forward a complaint, the passage of time may make an incident difficult or even impossible to investigate fairly or fully and to adjudicate. Therefore, students are encouraged to make a complaint as soon as possible after the incident has occurred. Although not an ideal situation given the passage of time, a former student may make a complaint against a current student. However, the reverse is not true: the complaint of a current student against a former student is not subject to adjudication pursuant to this policy. Nevertheless,
officials will help the complaining student to report the allegations to the appropriate off-campus law enforcement authorities.

D. Interim Actions

As appropriate, Luther will implement initial remedial and responsive actions upon notice of alleged violation of this policy. Such actions are determined by the context of the situation and will be based upon ensuring the student who filed the complaint has full access to their educational resources. A survivor need not necessarily pursue disciplinary or other action against the perpetrator in order to have access to remedial measures.

Remedial actions may include, but are not limited to:

- No contact order
- Room change for involved students; the accused student may be required to be moved
- Assistance with arrangements for academic work (extended deadlines, rescheduled exams, etc.)
- Taking an incomplete in a course
- Other accommodations for safety as necessary, such as escorts or increased monitoring of areas

E. The College’s Response

1. Complaints of sexual harassment, sex offenses, stalking, domestic violence, and domestic violence may be made by students, faculty members, staff members, or non-community members to one of the Harassing Conduct Officers, a Vice President or Dean, the Human Resources Office, a Residence Life staff member, or the Campus Safety and Security Office.

2. Sexual harassment, sex offenses, stalking, domestic violence, and domestic violence is a violation of the Luther Code of Conduct. The Code of Conduct outlines the procedures for addressing complaints against students including a description of the rights of Complainants and Respondents, student code authority and policy jurisdiction, prohibited behaviors, conduct procedures, possible sanctions, interim suspension, and the appeals process. Allegations of a violation of the Sexual Misconduct and Interpersonal Offenses cases are handled in a manner similar to the process outlined in the Code of Conduct.

3. Additional procedures related to addressing complaints of sexual harassment, sex offenses, stalking, domestic violence, and domestic violence follow:

   a. Complaints will be promptly investigated. For most complaints, investigations will be done by the Student Conduct Coordinator or a Harassing Conduct Officer if the Respondent is a
b. If the Respondent is a student, the person investigating the complaint will prepare a written fact-finding report in consultation with the Vice President and Dean for Student Life. The investigation will generally include, at a minimum, separate interviews of the Complainant and the Respondent. The Complainant and the Respondent will be permitted to have an advisor/support person (who may be an attorney at the parties own expense) present during their respective interviews. The investigator will also gather and review other evidence as deemed necessary. The College endeavors to complete investigations within 15 class days of the date the report is made. Occasionally, a particular situation may require additional investigation time.

c. The Vice President and Dean for Student Life and/or the Student Conduct Coordinator shall, based on the available evidence including the fact-finding report and the information gathered by the investigator, make an initial determination that the charges either do or do not appear to have merit. They may at their discretion conduct additional investigations and/or institute a formal hearing before the Luther College Hearing Board (hereafter, “Hearing Board”). Ordinarily, the initial decision regarding the charges is reached within 7 class days of the date the investigation is complete.

d. If the charges do appear to have merit, the Vice President and Dean for Student Life and/or the Student Conduct Coordinator may resolve the charges administratively by mutual consent of the parties involved on a basis acceptable to the Vice President and Dean for Student Life and/or the Student Conduct Coordinator. Such disposition shall be final, and there shall be no subsequent proceedings.

e. If the charges do appear to have merit and cannot be resolved administratively, a formal hearing is held in a manner specified in the Code of Conduct for the Hearing Board. The complaint will be heard by the Hearing Board, as detailed in Article IV (Code of Conduct Procedures) in the Student Handbook. At least seven members of the Hearing Board must be present for each hearing with at least one faculty member, one student and the Student Conduct Coordinator or Student Life Division representative; a simple majority vote is sufficient for reaching a decision. The Student Conduct Coordinator does not vote in the finding phase of the deliberation and only votes on a sanction in case of a tie. Ordinarily, a hearing will be scheduled within 15 class days of the completion of the investigation.

f. The Complainant and the Respondent will be permitted to each have an advisor present during the hearing. The advisor must be a current member of the Luther College community. The respondent and complainant may opt to have an attorney serve as their advisor for the hearing. The advisor will not participate directly in the hearing.

g. The Complainant and the Respondent will have an equal opportunity to offer witnesses and evidence.

4. A complaint will be resolved as follows:
a. The charges may be resolved administratively (including the imposition of sanctions), by mutual consent of the parties involved, on a basis acceptable to the Vice President and Dean for Student Life and/or the Student Conduct Coordinator. Administrative resolutions may not be appealed.

b. The Hearing Board may find that the Code of Conduct/Student Sexual Misconduct and Interpersonal Offense Policy has been violated. The Hearing Board will determine and may impose disciplinary sanction(s) as outlined in the Code of Conduct and/ or take other appropriate action.

c. The Hearing Board may find that the Code of Conduct/Student Sexual Misconduct and Interpersonal Offense Policy was not violated; the complaint will be dismissed.

d. The Hearing Board may conclude that information about the case was insufficient to establish a violation; the complaint will be dismissed. Please note that the standard of proof that applies to a Hearing Board proceeding is a “preponderance of the evidence” standard (which means a determination of “more likely than not”).

e. Ordinarily, the Hearing Board will issue its decision within 7 class days of the hearing.

5. Complainants and Respondents will be notified in writing simultaneously about the Hearing Board decision, with an explanation of the rationale for the decision. To appeal a decision reached by the Hearing Board, please refer to the entire appeals process as described in the Code of Conduct. Please note that appeals shall be made in writing and shall be delivered to the Student Conduct Coordinator or his/her designee within five class days of receiving the decision. A decision reached administratively by the Vice President and Dean for Student Life and/or the Student Conduct Coordinator, a decision reached by the Hearing Board, and/or a sanction imposed by a Student Conduct Coordinator may be appealed by the Respondent(s) or Complainant(s) to the Campus Appeals Board within five class days of the decision. Such appeals shall be in writing and shall be delivered to the Student Conduct Coordinator or his/her designee. The entire appeals process is described in the Code of Conduct.

F. Sanction Statement

- Any student found responsible for violating the policy on Non-Consensual or Forced Sexual Contact (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.*

- Any student found responsible for violating the policy on Non-Consensual or Forced Sexual Intercourse will likely face a recommended sanction of suspension or expulsion.*

- Any student found responsible for violating the policy on sexual exploitation or sexual harassment will likely receive a recommended sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous campus conduct code violations.*
*The conduct body reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregious behavior. Neither the initial hearing officers nor any appeals body or officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

**G. Statement of Student Rights**

A Student Who Reports a violation of this policy is entitled:

- To be treated with respect by college officials.
- To be made aware of available options.
- To take advantage of campus support resources.
- To experience a safe living and educational environment. Students should consult with a dean in the Student Life Office.
- To be made aware of options that are available including the aforementioned support resources, remedial actions, timeframe to file a complaint and resolution options.
- To be advised of the status of an investigation, remedial actions that have been taken, preparations for an on-campus hearing, the outcome of a hearing and assessed sanctions (if appropriate), whether an appeal has been filed and/or the outcome of an appeal.
- To have an advisor present during a Luther College Hearing Board hearing in accordance with the Luther Code of Student Conduct.
- To have irrelevant prior sexual history disallowed in a Luther College Hearing Board hearing.
- To refuse to have an allegation resolved through informal resolution procedures.
- To not be prosecuted for minor misconduct that is ancillary to the incident that is a violation of this policy.
- To be free from retaliation.

A Student Respondent of a violation of this policy is entitled:

- To be treated with respect by college officials.
- To take advantage of campus support resources.
- To have an advisor during a Luther College Hearing Board hearing in accordance with the Luther College Code of Student Conduct.
· To be advised of the status of an investigation, remedial actions that have been taken, preparations for an on-campus hearing, the outcome of a hearing and assessed sanctions (if appropriate), whether an appeal has been filed and/or the outcome of an appeal.

· To have irrelevant prior sexual history disallowed in a Luther College Hearing Board hearing.

· To refuse to have an allegation resolved through informal resolution procedures.

· To be heard in accordance with the Luther College Code of Student Conduct.

H. Administration of this Policy

The College’s Title IX Coordinator, Matthew Bills, is responsible to ensure the College’s compliance with this policy. Any questions or concerns about the administration of this policy or any person’s failure to adhere to this policy, please contact Matthew Bills, Title IX Coordinator, Main 25, x1415.

Inquiries and complaints may be made externally to:

Office for Civil Rights (OCR)

U.S. Department of Education

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline #: 800-421-3481

Facsimile: 202-453-6012 TDD#: 877-521-2172

E-mail: OCR@ed.gov

Web: http://www.ed.gov/ocr