2019
Annual Security Report
and
Fire Safety Report

Luther College
700 College Drive
Decorah, IA 52101
In 1990 the United States Congress passed legislation commonly known as the Campus Security Act. It is now known as the Clery Act (The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics 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. Campus Security Authorities may also receive reports of crimes.

   - 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, social media, web 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 Safety and 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, Student Life, or the Decorah Police Department. Crimes may be reported on a confidential (not to be construed as anonymous) basis, requesting inclusion in the annual crime statistics to Campus Safety and Security or the Student Life Office. 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 occupant. 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 hours. All other buildings are locked and unlocked by Campus Safety and 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 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 to the Risk Management and Safety Committee and/or Facilities. 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 Department is strong, and includes cooperation on safety, emergency notifications, investigations, and more.
• The campus community is encouraged to report crimes to the above noted resources.

4. Type and Frequency of Programs

Students and staff are annually provided Student Handbook information and information related to the Clery 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.

Crime Prevention and Training

In an effort to promote safety and foster a campus climate intolerant of sexual misconduct, the College makes the following preventative programming and response resources available:

• Think About It: All first-year and transfer students were required to complete an online substance and sexual abuse training program that prepares students to confront and prevent serious campus problems. This course takes an interconnected view of the issues of substance abuse, hook-up culture, sexual violence, and healthy relationships. All faculty and staff also went through a similar online course aimed at helping them identify problematic situations in the workplace and support survivors of sexual violence.

• Health 100: Lifetime Health and Wellness: All Luther College students are required to complete Health 100, a for-credit course. The course includes training on healthy relationships, consent in sexual encounters, and bystander intervention.
- **CORE (Culture of Respect and Empowerment):** All new students are required to attend this program, which includes a theatrical presentation performed by a student acting group. This dynamic program encourages students to confront issues of consent, healthy relationships, and bystander responsibility. Student actors performed on topics of consent, healthy relationships, substances, mental health, diversity & inclusion, and being an active bystander. On-campus (LCCS) and off-campus support were available during and after the performance. Sponsored by Case Management, Student Life, and partnered with Bob Larson (emeriti) and Prof. Jane Hawley in the VPE department.

- **Escalation workshops:** Counseling Service offers these workshops that help students learn to identify warning signs of relationship violence and how they can step in and help. The film that is part of the workshop provides a powerful example that ignites an open conversation that many students may not have had with one another before.

- **Step UP! Bystander Intervention Training:** Step UP! Bystander Intervention Training is offered periodically, both as targeted trainings for individual groups and generally for anyone interested. Step UP! is a pro-social behavior and bystander intervention program that educates students to be proactive in helping others. Step UP! aims to raise awareness of helping behaviors, increase motivation to help, develop skills and confidence when responding to problems or concerns, and ensure the safety and well-being of self and others.

- **Here’s My Story:** Survivors and those who support them experience the long-lasting impacts of trauma. Through storytelling, we can showcase self-agency, hope, and healing through a panel in October 2019.

- **Norse Against Sexual Assault:** Luther College supports Norse Against Sexual Assault, a collaborative student organization that works with faculty, administration, and advocates to raise awareness about sexual assault at Luther College and in society at large. NASA plays a leading role in the Fall Week of Action and April Sexual Assault Awareness Month.

- **Independent Victim Advocates:** Luther College regularly hosts independent victim advocates from the Riverview Center, which works with survivors of sexual assault, and Helping Services for Northeast Iowa, which works with survivors of domestic abuse. These advocates hold office hours, participate in educational and awareness programs, and lead confidential survivor support groups.

Training is conducted annually for all investigators, adjudicators, and others who directly address incidents of sexual violence. These trainings include information regarding nonconsensual sexual contact, non-consensual sexual intercourse, stalking, dating violence, and domestic violence. This training also includes a trauma-informed training to help our employees recognize and understand the impact of trauma on sexual violence survivors.
All students receive an overview of the College’s policies on Student Sexual Misconduct, Alcohol and Other Drugs, and Bias Incident, Hate Act, Hate Crimes, Discrimination and Harassment at the beginning of the fall semester. This overview provides information on reporting crimes and violations of college policies.

Resident Assistants were trained on August 27, 2019 on the Student Policy on Sexual Misconduct and their role in both prevention and receiving reports of alleged 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 21, 20189).

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

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** for students is included at the end of this report. It is available in the Student Handbook.

For employees, the college includes the following statements in both the Faculty and Staff Handbooks.

The college prohibits its employees (“employees” or “employee” includes student workers in this policy) from reporting to work or performing work for the college while impaired by or under the influence of illegal drugs or alcohol.

The illegal use, possession, dispensation, distribution, manufacture, or sale of alcohol or other drugs by an employee in the workplace, or while the employee is on duty or official college business or by a student is prohibited. This standard of conduct applies to all college-sponsored on-campus and off-campus activities.

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. Programs may be passive poster campaigns, awareness programs such as Alcohol Awareness Month, or guest speakers. Collaboration on programs may occur with other campus departments and student organizations 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 points-based accountability system in regard to alcohol and other drug violations. This system incorporates benchmarks for educational sanctions, loss of privileges, and referral to the hearing board for consideration of suspension or expulsion. The system encourages students to accept responsibility for their behavior and includes opportunities to have points forgiven – and thus return of lost privileges – during a period where no further violations have occurred. Additionally, this system provides a much clearer outline of expectations and outcomes when policies have been violated. Students may be referred to substance abuse evaluations and expected to follow treatment recommendations.
9. Sexual Violence Policy and Programs

- Luther’s Policy on Student Sexual Misconduct and the Interim Title IX policy, 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. The college prohibits sexual violence of any form including dating violence, domestic violence, sexual assault, and stalking.
- Luther College employs a preponderance of evidence standard in all of its disciplinary procedures, including those employed to resolve complaints of sexual violence.
- Sanctions assessed when a respondent have been found responsible for dating violence, domestic violence, sexual assault or stalking are typically configured to the severity of the violation and its impact on the individual students involved as well as the community. In the most serious cases, lengthy suspensions or expulsion are likely. Other sanctions from the Student Handbook, listed below, may be assessed when relevant and/or necessary. Restorative practices are utilized when deemed appropriate. All relevant sanctions may be found in the respective policies at the end of this report.

- Annual programs are provided during New Student Orientation regarding various aspects of sexual violence. Each new student receives a printed brochure of campus definitions, reporting options, and campus supports. Posters are prominently displayed regarding what to do in the event of sexual assault. 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: Campus Safety and Security (563-387-2111), Student Life Office (563-387-1020), Residence Life via Hall Director or RA, Riverview Center Sexual Assault Resources (563-380-3332), Domestic and Sexual Abuse Resource Center (800-383-2988), Winneshiek Medical Center (563-382-2911), Decorah Police Department (563-382-3667).
- 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 Student Life Office, Counseling Service, Student Health Services, College Ministries, and Residence Life. They can also assist in making appropriate off-campus referrals. Counseling Service, Student Health Services, and College Ministries are confidential receivers of reports.
- Luther will provide resource and other service information to current students and employees. Support and resources are available both on campus and in the local community. Referrals to specific agencies will be made upon request.
- As appropriate, Luther will implement initial remedial and responsive actions upon notice of allegation of a sex offense. 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. Luther is
obligated to comply with a student’s reasonable request for a living and/or academic situation change following an alleged sex offense.

10. Procedures Victims Should Follow

Any kind of coercive sexual contact, either by a stranger or someone you know, is sexual assault. If you are sexually assaulted, tell someone who can help. Don't try to handle it alone. Please consider the following options and resources.

In the immediate aftermath of a sexual assault:

- Contact Campus Security at (563) 387-2111, an RA, or hall director for help. They have received training in how to support you.
- Contact the Riverview Center at (563) 380-3332 or the 24-hour crisis line at (888) 557-0310. A trained sexual assault advocate is available to talk with you by phone or meet with you. The advocate can provide support and information about medical, legal, and counseling resources.
- Secure immediate medical attention at Winneshiek Medical Center Emergency Room, (563) 382-2911, 901 Montgomery St., Decorah.
  - Do not remove any clothing, shower, douche, or do anything that might destroy physical evidence of the assault.
  - A Luther staff member or a Riverview Center advocate can accompany you to the emergency room.
  - Your evaluation and treatment at the hospital can be paid for by the Iowa Sexual Assault Examination Payment Program. You do not need to make a report to the police to receive this benefit, and your health insurance will not be charged.
  - Emergency contraception is most effective within 72 hours, but can still have some effectiveness up to 5 days.
- Make a prompt report to the Decorah Police Department: (563) 382-3667. A Luther staff member or a Riverview Center advocate can assist you if you wish to make a report. You are not obligated to make a report and making a report does not obligate you to pursue formal charges.

After the immediate crisis:

- Seek support from your RA or hall director.
- Contact Riverview Center for information and support.
- Pursue medical follow-up at the Luther College Student Health Services (563-387-1045; Larsen Hall) or Winneshiek Medical Center ER.
- You may still make a report to the Decorah Police, if you have not already done so.
- Consult with the Student Life Office (563-387-1020; 206 Dahl Centennial Union), about the option of filing a formal complaint and pursuing campus judicial action. Ask any questions you have about the process.
- You may request changes in academic or living arrangements to minimize contact with your assailant, if these are reasonably possible. Speak to the Student Life Office.
Consult the Student Handbook for information on college policies, reporting, resources and support services.
Consider confidential counseling support at the Counseling Service (563-387-1375; Larsen Hall).
Consider confidential medical support at Student Health Services (563-387-1045; Larsen Hall).
Consider confidential pastoral support from the Office of College Ministries (563-387-1040; Center for Faith and Life).

Contact Information

For Emergency Assistance

- Call 911 (or, 9-911 from any campus phone) to reach the Decorah Police Department
- Call 563-387-2111 to reach Campus Safety & Security

For Confidential Medical Care

- Go to the Winneshiek Medical Center at 901 Montgomery Street, Decorah, IA 52101
- Go to Student Health Services in Larsen Hall or call them at 563-387-1045

For Confidential Guidance and Support

- Call Counseling Service at 563-387-1375
- Call College Ministries at 563-387-1040
- Call the Riverview Center at 563-380-3332
- Call Helping Services at 563-387-1720
- Call the Iowa Sexual Abuse Hotline at 800-284-7821

To File an Official Report

- Meet with Janet Hunter, Dahl Centennial Union 266, 563-387-2229
- Meet with Bob Harri, Dahl Centennial Union 129, 563-387-2103
- Meet with Kasey Nikkel, Main 30, 563-387-1825

11. Overview of process

The following is information located on the Title IX webpage. Detailed information for complainants and respondents may be found at the end of this document.

This high-level summary of the sexual harassment grievance process is provided for your convenience and does not provide complete details. This is not the official policy. For more detailed information, please view the Luther College Interim Sexual Harassment Policy or contact the Title IX Team.
Report, Preliminary Inquiry, and Supportive Measures

Luther College receives a report of an incident of sexual harassment on our campus or involving members of our Luther community. In response to every report, Luther conducts a preliminary inquiry to identify the parties involved and ascertain the misconduct being alleged. This inquiry typically takes the form of a conversation with the Complainant and is usually completed without informing the alleged Respondent or other parties involved of the report.

Upon receipt of the report, Luther College offers Complainants a wide range of support services, including no contact directives, academic assistance, housing accommodations, confidential counseling, referrals for medical attention, and more.

Finally, the College must determine the appropriate next steps. Generally, the College is able to allow the Complainant to decide if and when to initiate the grievance process. However, where there is a clear threat to campus safety Luther may be required to proceed with the formal process despite the wishes of the Complainant.

Janet Hunter works collaboratively with Kasey Nikkel during this stage of the process, consulting with Bob Harri as necessary.

Formal Complaint and Investigation

A report becomes a complaint when the Complainant filed/signed a document alleging sexual harassment against a Respondent and for the College to initiate the grievance process. Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints two investigators to conduct the investigation.

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process.

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses, and obtaining available relevant evidence, both inculpatory and exculpatory.
All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence on the record.

A typical investigation includes:
● Interview with and written statement from the complainant
● Interview with and written statement from the respondent
● Interviews with witnesses
● Evidence supplied by the parties (photos, messages, etc.)
● Other evidence (security camera footage, key card access, location photos, etc.)

Review and Respond
Prior to the completion of the investigation report, the Complainant and Respondent and, unless directed otherwise by the respective parties, their advisor, will be provided the opportunity to inspect all evidence directly related to the allegations of the formal complaint.

Complainant and Respondent will be given at least ten (10) days to inspect and review the evidence collected during the College’s investigation and to submit a written response the Investigator(s) will consider in preparing a final investigation report. The final investigation report will summarize the information and include any documents gathered.

Bob Harri, Kris Franzen, and Jake Dyer usually handle investigations as a team. Kasey Nikkel monitors progress, consults with the investigators, and communicates with the parties as necessary.

Hearing
Both parties are notified upon conclusion of the investigation and asked to meet with the chair of the Luther College Hearing Board to discuss hearing rules and procedures. The Hearing Board chair drafts an official charge letter identifying the issues for the hearing. In preparation for the hearing, parties will typically each meet several times with the chairperson, and during this phase each party:

The hearing is conducted by the chair, supported by a Hearing Board composed of students, faculty, and staff. All hearings are recorded. The hearing is set up so that the parties can see and hear each other whether in person or virtually. Submission to cross-examination of the parties and relevant witnesses is required. Additionally, the board members will ask questions to parties and witness(es). A typical hearing might follow this structure:
1. Introductions and hearing procedures
At the conclusion of the hearing both parties are released and the Board remains to conduct deliberations. First, the Board must determine by the preponderance of the evidence standard whether the respondent is responsible for each charge enumerated in the charge letter. Once the findings are determined, if necessary, the Board proceeds to determine an appropriate sanction for the respondent. Both parties receive notice of the hearing outcome in simultaneous meetings, typically the morning after the hearing.

Nan Hibbs currently serves as a chairperson of the Luther College Hearing Board, and she consults with Kasey Nikkel as necessary.

Appeal
Both parties are entitled to file appeals if they are dissatisfied with either the findings or the sanctions. However, valid grounds for appeal are limited to:
- Due to conflict of interest or bias that may affect the outcome
- Due to procedural irregularity that may affect the outcome
- Whether the sanctions imposed were appropriate
- Consider new information not known to the appellant at the time of the hearing that may affect the outcome

Written appeals, along with hearing materials and recordings, are reviewed by the Luther College Appeals Board, which consists of Corey Landstrom, a representative of the Faculty Interests Committee, and the president of the Student Senate. The Appeals Board does not meet with the parties.
Other Considerations and Ongoing Support

In every meeting with Luther College, both parties are entitled to have an advisor of their choice. That advisor may be a student, faculty, family member, attorney, or other outside advisor, advisors are required for cross-examination.

Luther College has a strict non-retaliation policy and does not tolerate retaliation against anyone who brings a complaint or otherwise participates in an investigation or hearing related to sexual harassment allegations.

The formal grievance process, including all steps from complaint through notice of hearing result, is typically completed in two months or less. However, delays can occur when evidence is difficult to obtain, there are many witnesses to interview, or the College is on break between semesters. The College makes every effort to resolve complaints in a timely manner and inform both parties of any delays.

The conclusion of the formal grievance process does not signal the end of the support provided to the parties. Students’ wellbeing, safety, and ability to thrive at Luther are of utmost importance to us beyond our federal compliance.

Legal System

Luther College encourages Complainants to file reports with local police and to press charges if warranted. However, the decision of whether to do that rests entirely with the Complainant. If the victim does decide to work with local law enforcement, Luther College will invite law enforcement officers in the investigation process as to minimize the number of times the victim needs to recall the incident.

Once initiated, the legal process and the on-campus conduct process function separately.


The following crime definitions are listed as defined by the local law jurisdiction of the Luther College Campus (Decorah, Iowa).

**Dating Violence.** Currently, the Iowa law does not have a definition for Dating Violence. If a person is in a dating relationship where they are not living together, not married and don’t have any kids and an act of violence occurs, such behavior is listed as an assault.

**Domestic Violence.** Iowa law combines two sections of the criminal code to define domestic violence. The assault code, which defines criminal behavior (Iowa Code 708.1 assault) and the Domestic Abuse Act, which defines a domestic relationship, (Iowa Code 236.2).
"Domestic abuse" is committing assault, as defined in section 708.1, under any of the following circumstances:

● The assault is between family or household members who reside together at the time of the assault.
● The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.
● The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.
● The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.
● The assault is between persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault. In determining whether the persons are or have been in an intimate relationship, the court may consider:
  o The duration of the relationship
  o The frequency of interaction
  o Whether the relationship has been terminated
  o The nature of the relationship, characterized by either party’s expectation of sexual, romantic involvement.
● A person may be involved in an intimate relationship with more than one person at a time.
● “Family or household members” means spouses, persons cohabiting, parents, or other persons related by consanguinity or affinity. This does not include children under age 18 or household members who reside together at the time of the assault.
● “Intimate relationship” means a significant romantic involvement that need not include sexual involvement. An intimate relationship does not include casual social relationship or associations in a business or professional capacity.

Sexual Abuse. Any sex act between persons (Iowa Code section 709.1) is sexual abuse by either of the participants when the act is performed with the other participant in any of the following circumstances:

● The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats or violence toward any person, or if the act is done while the other is under the influence of a drug-inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other.
● Such other participant is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual abuse.
● Such other participant is a child.

Consent. In reference to sexual activity, as defined by the State of Iowa - the term “consent” with reference to sexual activity is not specifically defined in Iowa law.

13. Crimes of Violence and Non-Forcible Sex Offenses. Upon written request, victims can have the results of any disciplinary proceeding conducted by Luther College against a student who is the alleged perpetrator of a crime of violence of non-forcible sex offense. If the alleged victim is deceased as a result of such a crime, the victim’s next of kin shall be treated as the alleged victim.
14. **Bystander Intervention.** Tips provided by the It’s On Us (www.itsonus.org):

- Talk to your friends honestly and openly about sexual assault.
- Don’t be a bystander – if you see something, intervene in any way you can.
- Trust your gut. If something looks like it might be a bad situation it probably is.
- Be direct. Ask someone who looks like they may need help if they’re okay.
- Get someone to help you if you see something – enlist a friend, RA, bartender, or host to help step in.
- Keep an eye on someone who has had too much to drink.
- If you see someone who is too intoxicated to consent, enlist their friends to help them leave safely.
- Recognize the potential danger of someone who talks about planning to target another person at a party.
- Be aware if someone is deliberately trying to intoxicate, isolate, or corner someone else.
- Get in the way by creating a distraction, drawing attention to the situation, or separating them.
- Understand that if someone does not or cannot consent to sex, it’s rape.
- Never blame the victim.
- If you are a victim or survivor, or helping someone in that situation call the National Sexual Assault Hotline at 1-800-656-HOPE.

15. **Reducing Risk.** Luther College and the surrounding Decorah community are relatively safe places but we are not immune from the same problems that plague the rest of the world; incidents like this happen as sexual assault is a deplorable part of our culture. As a community we can work toward maintaining a safe environment where every individual is treated with respect.

We also suggest exercising good safety practices. The following steps will not eliminate all potential hazards but can help to reduce some of those risks. These are general safety tips and are not necessarily reflective of this reported incident.

- Stay alert and aware of your surroundings; this helps take away the element of surprise someone might otherwise use against you.
- Try not to walk alone, especially at night and/or in isolated areas. Walk with friends and stay in well-lit and well-traveled areas as much as possible.
- Security will provide a walking escort on campus so feel free to utilize this service, (563) 387-2111.
- Carry a cell phone and be aware of where you are so you can direct help to your location if it is needed. Call 911 in an emergency and program the campus security number into your phone, (563) 387-2111.
- If you are traveling alone let someone know your estimated time of arrival to your destination and the route you plan to take.
- Additional steps to reduce risks can be found on the Rape and Incest National Network website: https://www.rainn.org/articles/steps-you-can-take-prevent-sexual-assault.
16. **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/

17. **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 norsehub.luther.edu.
- 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 norsehub.luther.edu. 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.

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

**Emergency (ambulance, fire, etc.)**

- 911 (9-911 from a campus phone)

**Campus (Emergency calls only)**

- 563-387-2111

**Decorah Police**

- 563-382-3667
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

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. Non-forcible sex offenses are acts of "unlawful, non-forcible 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, residence halls refers to campus residential units;
  - On-campus, non-residence hall refers to crimes at campus locations other than residential units;
  - Total, on-campus refers to the combined total of residence halls and non-residence halls;
  - 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.

The 2019 statistics include a reduction in reported number of rapes, stalking, and dating violence from the 2018 report. Additionally, the number of alcohol policy referrals have decreased from 2018 while drug referrals increased over the past three years.

<table>
<thead>
<tr>
<th>Offense</th>
<th>Year</th>
<th>On Campus: Residence Hall</th>
<th>On Campus: Other</th>
<th>Total On Campus</th>
<th>Non-campus</th>
<th>Public Property</th>
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2018
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2017
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<th>Incest</th>
<th>Statutory Rape</th>
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</thead>
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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>
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<td>X</td>
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<td></td>
<td>X</td>
<td>X</td>
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<td>2</td>
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</tbody>
</table>
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 does conduct 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 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 outlets. You are permitted, however, to have one UL-approved surge protector with 6 or less outlets per resident for computer and auxiliary equipment. Any appliance with a heavy electrical draw, such as a hair dryer, refrigerator, decorative lights, or coffee maker, must be plugged directly into a wall outlet and not a power strip.
- Wireless Routers.
- Satellite dishes or powered antenna devices.
- Candles, candle warmers, incense, oil lamps, halogen torchiere lamps, spider lamps, and open flames.
- Smoking and illegal drug paraphernalia.
- Flammable substances such as gasoline, cleaning fluids, lighter fluid and mineral spirits.
- Motorized vehicles such as motorcycles and mopeds.
- Hoverboards and similar devices, including Segways, IO Hawks, and Skywalkers.
- Live Christmas trees, other live holiday greenery, and large decorative bulbs.
- Fireworks and other explosives.
- Firearms, ammunition, swords, switchblades and other dangerous knives, bows and arrows, slingshots, pellet guns, paintball guns and all other weapons. Students living in college-owned housing who wish to have a weapon for hunting purposes can store their weapons and ammunition with Chase the Adventure (phone 563-532-9821). If you are aware that another student or other individual possesses a handgun or other weapon in violation of this policy, you should immediately report the conduct issue to Luther College Safety and Security.

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, hot plates, broilers, pizza ovens, sandwich grills, electric frying pans, electric grills (George Foreman-type grills), NuWave Ovens, deep fryers, and instant pots/pressure cookers.
- Microwaves.
- Space heaters.
- Air conditioners.
- Desktop burners and other appliances with an open heat coil or induction burner.
- Heated blankets/bedding.

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 (563) 387-2111 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, 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 online (http://www.luther.edu/safety/emergency/).

**Fire Safety Log**
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 Security and the Residence Life Office. The log below illustrates the reported fire incidents for the 2018, 2017, and 2016 calendar years:

**Fire Incidents 2019**

<table>
<thead>
<tr>
<th>Residence Hall</th>
<th>Date of Incident</th>
<th>Time of Incident</th>
<th>Cause of Fire</th>
<th>Numb of Injurie s</th>
<th>Numbe r of Deaths</th>
<th>Value of Property damage d</th>
<th>Total Number of reported fires</th>
<th>Case Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baker Village</td>
<td>10/15/19</td>
<td>1223</td>
<td>Cooking</td>
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<td>$30.00</td>
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<td>Brandt</td>
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</table>
On 10/15/19 at about 1223 residents were cooking in their Baker Village unit when a plastic cover caught fire. Occupants used a fire extinguisher to halt the flame and there was no damage other than the cover and clean-up of the extinguisher powder.

At about 1355 on 12/12/19 the sprinkler head inside a room on the first floor of Dieseth Hall activated. A joint investigation by Luther Safety and Security, the Decorah Police Department, The Decorah Fire Department and the Iowa State Fire Marshall revealed a fire damaged property in the room. There was additional damage that resulted from water emitted by the sprinkler system but the system functioned well in extinguishing the fire. The cause of this fire has not been determined.

### Fire Statistics 2018

<table>
<thead>
<tr>
<th>Residence Hall</th>
<th>Date of Incident</th>
<th>Time of Incident</th>
<th>Cause of Fire</th>
<th>Number of Injuries</th>
<th>Number of Deaths</th>
<th>Value of Property damaged</th>
<th>Total Number of reported fires</th>
<th>Case Number</th>
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<tr>
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</table>

On 10/15/19 at about 1223 residents were cooking in their Baker Village unit when a plastic cover caught fire. Occupants used a fire extinguisher to halt the flame and there was no damage other than the cover and clean-up of the extinguisher powder.

At about 1355 on 12/12/19 the sprinkler head inside a room on the first floor of Dieseth Hall activated. A joint investigation by Luther Safety and Security, the Decorah Police Department, The Decorah Fire Department and the Iowa State Fire Marshall revealed a fire damaged property in the room. There was additional damage that resulted from water emitted by the sprinkler system but the system functioned well in extinguishing the fire. The cause of this fire has not been determined.

### Fire Statistics 2018

<table>
<thead>
<tr>
<th>Residence Hall</th>
<th>Date of Incident</th>
<th>Time of Incident</th>
<th>Cause of Fire</th>
<th>Number of Injuries</th>
<th>Number of Deaths</th>
<th>Value of Property damaged</th>
<th>Total Number of reported fires</th>
<th>Case Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baker Village</td>
<td>12/12/19</td>
<td>1355</td>
<td>Unknown</td>
<td>0</td>
<td>0</td>
<td>$10,000</td>
<td>1</td>
<td>00719-2019</td>
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<td>College Apts.</td>
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<tr>
<td>Residence Hall</td>
<td>Date of Incident</td>
<td>Time of Incident</td>
<td>Cause of Fire</td>
<td>Number of Injuries</td>
<td>Number of Deaths</td>
<td>Value of Property damaged</td>
<td>Total Number of reported fires</td>
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<tr>
<td>Dieseth</td>
<td>5/19/17</td>
<td>0250</td>
<td>Undetermined</td>
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<td>$2000</td>
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<tr>
<td>Prairie House</td>
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<tr>
<td>Prairie House</td>
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<td>Sustainability House</td>
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</tbody>
</table>
Luther College also publishes an annual crime report in compliance with the Higher Education Opportunity Act. A written copy of this report is available in Student Life and Security. Questions regarding this Fire Safety Report should be directed to:

Robert Harri  
Director of Campus Safety and Security  
563-387-2103  
harrro01@luther.edu.
Alcohol and Other Drugs

Point System Grid

I. 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 is detailed in the [Point System Grid]. 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.

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, specific points will be assessed. The points assigned 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. If the student does not then complete the disciplinary sanction, the student is subject to an assessment of a point. Other sanctions may be assigned as appropriate. Any violation may be referred to the Luther College Hearing Board for review.

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: Point System Grid

<table>
<thead>
<tr>
<th>Violation</th>
<th>Points</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Medical Amnesty / Good Samaritan exemption</td>
<td>0</td>
<td><a href="http://bit.ly/MedicalAmnestyForm">http://bit.ly/MedicalAmnestyForm</a></td>
</tr>
<tr>
<td>A Use or possession of an alcoholic beverage under the age of 21</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>B Being in the presence of alcohol under the age of 21</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>C Possession of an open container of alcohol in a non-approved public location</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>D Possession of a fictitious or fraudulent ID</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>E Guest policy violation</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>F Excessive noise</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>G Failure to complete new-student online educational program on alcohol, drugs, healthy relationships and bystander intervention. Fall deadline is September 30. Spring deadline is February 28.</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>H Possession of alcohol containers under the age of 21 (for example: cans, bottles, shot glasses, flasks, funnels, etc.)</td>
<td>1</td>
<td>May include prohibited item fine</td>
</tr>
<tr>
<td>I Being in the presence of high-risk drinking (such as drinking games with alcohol, bongs, funnels)</td>
<td>1</td>
<td>May include prohibited item fine</td>
</tr>
<tr>
<td>J *Hosting individuals in room where open containers of alcohol are in the presence of individuals under 21</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>K *Missed sanction deadline</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>L *Repeated alcohol or other drug violation within 3 months of incident</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>
(not including original incident month); points for new incident are assessed and an additional point is added to the total

<table>
<thead>
<tr>
<th>Letter</th>
<th>Description</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>M</td>
<td>*Use of a smoking device (e-cigarette, vaporizer, etc.) or smoking tobacco on college-owned property</td>
<td>1</td>
</tr>
<tr>
<td>N</td>
<td>Intoxicated individual (signs of internal consumption including disruptive behavior requiring a response from college or law enforcement official)</td>
<td>2</td>
</tr>
<tr>
<td>O</td>
<td>*Disruptive behavior (vomiting, loss of bodily functions, excessive noise, or deemed disruptive behaviors, etc)</td>
<td>2</td>
</tr>
<tr>
<td>P</td>
<td>*Disorderly conduct (failure to comply with college or law enforcement official)</td>
<td>2</td>
</tr>
<tr>
<td>Q</td>
<td>Being in the presence of an illegal drug substance citation (such as marijuana)</td>
<td>2</td>
</tr>
<tr>
<td>R</td>
<td>Use of a fictitious or fraudulent ID to purchase alcohol</td>
<td>3</td>
</tr>
<tr>
<td>S</td>
<td>Use or possession of hard alcohol (liquor) under the age of 21</td>
<td>3</td>
</tr>
<tr>
<td>T</td>
<td>*False activation of a fire alarm or tampering with safety equipment</td>
<td>3</td>
</tr>
<tr>
<td>U</td>
<td>Hosting an event with high-risk drinking (such as drinking games with alcohol, bongs, funnels)</td>
<td>4</td>
</tr>
<tr>
<td>V</td>
<td>Providing alcoholic beverages to a student under the age of 21</td>
<td>4</td>
</tr>
<tr>
<td>W</td>
<td>Use or possession of marijuana and/or drug paraphernalia</td>
<td>4</td>
</tr>
<tr>
<td>X</td>
<td>Acute, emergency medical care when medical amnesty is not available</td>
<td>4</td>
</tr>
<tr>
<td>Y</td>
<td>*Engaging in a physical altercation</td>
<td>4</td>
</tr>
<tr>
<td>Z</td>
<td>*Destruction of property belonging to another student, the college, the city of Decorah or other public space, or privately owned property</td>
<td>5</td>
</tr>
<tr>
<td>AA</td>
<td>Possession of a keg, common source, or large quantities of an alcoholic beverage—regardless of age—on college-owned property</td>
<td>6</td>
</tr>
<tr>
<td>BB</td>
<td>Providing hard alcohol, by a legal-aged student, to a student under the age of 21</td>
<td>6</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Points</td>
</tr>
<tr>
<td>------</td>
<td>-----------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>CC</td>
<td>Unlicensed sale of alcohol to another individual or individuals</td>
<td>6</td>
</tr>
<tr>
<td>DD</td>
<td>Use or possession of illegal drugs other than marijuana</td>
<td>8</td>
</tr>
<tr>
<td>EE</td>
<td>Illegal use of prescription medications, including without limitation the use of another's prescribed medications or illegal misuse of personally prescribed or over-the-counter medications</td>
<td>8</td>
</tr>
<tr>
<td>FF</td>
<td>Distributing illegal drugs (including, but not limited to, marijuana) or other controlled substances (legal, prescription drugs)</td>
<td>9</td>
</tr>
<tr>
<td>GG</td>
<td>Operating a motor vehicle under the influence of alcohol and/or other drugs (arrested for)</td>
<td>9</td>
</tr>
<tr>
<td>HH</td>
<td>Selling illegal drugs (including, but not limited to, marijuana) or other controlled substances (legal, prescription drugs)</td>
<td>10</td>
</tr>
</tbody>
</table>

*Corollary Points*

For example, a student who has accepted responsibility (or been found responsible) for possession of an open container of alcohol as well as disorderly conduct would be assessed a total of 3 points for the incident.

**Other Sanctions**

Disciplinary sanctions of suspension or expulsion may be relevant in some cases. Administrative hearing officers or the Luther College Hearing Board may also assign other sanctions, including the aforementioned sanctions, depending on the specific circumstances of the situation. That is, sanctions for cases more severe in magnitude can exceed the outcomes published in this grid. All possible sanctions are outlined...
in the Code of Conduct in the Student Handbook.

Students can be eligible to have a point reduced from their personal points history when they have no further violations of the Luther College Policy on Alcohol and Drugs during the three months following the month of an incident when the college is in session.

Students who return after a disciplinary suspension after accumulating 10 or more points will return with 5 points on their personal points history.

An example: a student has accepted responsibility (or been found responsible) for a violation during September is assessed 2 points. If the student has no further violations for the remainder of the month of September or during the months of October, November, and December, the student would have one point removed from their points history.

### Point Forgiveness

<table>
<thead>
<tr>
<th>Accumulated points benchmarks</th>
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<tbody>
<tr>
<td><strong>2</strong></td>
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<tr>
<td><strong>4</strong></td>
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<td><strong>6</strong></td>
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<td><strong>6</strong></td>
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<tr>
<td><strong>7</strong></td>
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<td><strong>7</strong></td>
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</tbody>
</table>
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.

The Medical Amnesty form is available online.

**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. Please seek help by calling Campus Safety and Security (563-387-2111) or 911.
Student Sexual Misconduct Policies and Procedures

Sexual Misconduct (non-TIX) Policy Statement

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 misconduct are inconsistent with our educational mission.

This policy covers incidents that occur in locations not covered or dismissed under Title IX and incidents of sexual misconduct that are not included in the Department of Education’s Title IX definitions. While cases addressed under this policy will closely mirror those that are determined to be alleged violations of Title IX, there are some differences related to the process.

1. Glossary

- Advisor means a person chosen by a party, to accompany the party to meetings related to the resolution process, to advise the party on that process, and to support the party at the hearing, if any. Advisors may be present to consult with during a Hearing, but may not ask questions or make comments during the hearing. Advisors can not view case materials independently from the party.
- Campus Appeals Board is comprised of three members including one faculty member—typically the chairperson of the Faculty Interest Committee, one student—typically the President of the Student Senate, and the Vice President and Dean for Student Life. The appeals board will consider party appeals in regard to a decision reached by the Hearing Board.
- Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual misconduct. At the time of filing the complaint, a complainant must be participating in or attempting to participate in the education program or activity of the College.
- Complaint (formal) means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment against a Respondent.
- Hearing Board (“Board”) refers to those who have decision-making and sanctioning authority within the College’s Formal Grievance process. The Board is comprised of faculty, staff and students.
- Investigator means a person or persons charged by the College with gathering facts about an alleged violation of this Policy, assessing relevance, synthesizing the evidence, and compiling this information into a final investigation report and file of directly related evidence.
- Privacy means that information related to a complaint will be shared with a limited number of Luther College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. Privacy is distinct from confidentiality (see above).
- Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct or retaliation.
- Student includes all persons taking courses at Luther College, either full-time or part-time. Persons who withdraw or are suspended after allegedly violating the Code of Conduct, who are not officially enrolled for a particular term but who have a continuing relationship with Luther
College or who have accepted offers of admission are considered students, as are persons who are living in Luther College residence halls, although not enrolled in this institution.

2. Rationale for Policy

The core purpose of this policy is the prohibition of all forms of sexual misconduct, which includes sexual assault, dating, and domestic violence, stalking, and sexual exploitation. 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, fair and equitable report/complaint resolution process, 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; 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.

3. Applicable Scope

To establish a procedure for preventing and remediating reports and complaints of sexual misconduct, which includes sexual assault, dating violence, domestic violence, stalking, and sexual exploitation as defined herein, as well as retaliation against an individual for exercising rights under this policy. It is intended to ensure that the College’s policies and procedures related to sexual misconduct are interpreted and applied consistently with the Code of Conduct, Title IX, the Clery Act, and other applicable law.

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.

The College’s scope under Title IX is limited to its educational programs or activities, as well as any building owned or controlled by a student organization that is officially recognized by the College, such as a fraternity or sorority. The College’s scope under Title IX is also limited to conduct against a person that occurs in the United States. This policy covers locations that are not controlled by Luther College and that involve a Luther College student(s). For example, an incident that is reported to have occurred off campus such as a local apartment/house or international study away program.

Any person may file a complaint alleging sexual misconduct against a student under this policy. If a report or complaint does not fall under the College’s scope under Title IX, the College will utilize this policy and the related procedures to respond to claims of sexual misconduct. The College may still take action for such alleged conduct based on the nature of the alleged conduct, including under the College’s Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy and Procedures. Additionally, if the Respondent is unknown or is not a member of the College’s community, the Director of Student Rights and Responsibilities and/or Title IX Coordinator will assist the Complainant in
identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Further, even when the Respondent is not a member of the College’s community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator. In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from College property and/or events by issuing a No Trespass Order. When the Respondent is enrolled in or employed by another institution, the Director of Student Rights and Responsibilities and/or Title IX Coordinator can assist the Complainant in coordinating with the appropriate individual at that institution, as it may be possible to allege violations through that institution’s policies. Similarly, the Director of Student Rights and Responsibilities and/or Title IX Coordinator may be able to coordinate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the College where sexual misconduct or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

4. Title IX Coordinator

The Title IX Coordinator, along with the Director of Student Rights and Responsibilities, oversees implementation of the College’s policy on sexual harassment. The Title IX Coordinator has the primary responsibility for coordinating the College’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment, and retaliation prohibited under the Title IX policy and implements this sexual misconduct policy as well.

5. Steps to Take Immediately Following Sexual and/or Physical Violence

If a person experiences sexual and/or physical violence, many do not know where to turn for help or what steps to take. Although the choices about which options to explore rest with the victim, those who experience sexual or physical violence should consider the following steps:

1. **Contact local law enforcement (911).** The Title IX Coordinator, Deans of Student Life, or other member of the Title IX Team can assist with contacting law enforcement, but no victim/supervisor is required to contact law enforcement. You can also file a report with Safety and Security by calling 563.387.2111 (available 24X7).

2. **Seek immediate medical attention.** Those who experience sexual and/or physical violence are strongly encouraged to seek immediate medical attention at an area hospital or medical clinic, such as:
   
   Winneshiek Medical Center 563.382.2911  
   (SANE exams covered free of charge within 5 days)  
   Riverview Center (sexual assault advocacy) 563.380.3332  
   Helping Service (domestic and partner violence advocacy) 563.387.1720

Please be aware that hospital personnel may be obligated to contact proper authorities regarding reported violence. Although you are not obligated to do so, those who experience sexual and/or
physical violence are highly encouraged to take advantage of victim’s services to help understand options for off-campus proceedings and receive counseling.

**3. Preserve Evidence.** In the event of a sexual assault, if at all possible, do not change clothes, shower, bathe, douche, defecate, or urinate prior to seeking medical attention. Emergency room personnel are trained to check for injuries, as well as collect physical evidence. It is important to preserve evidence for the proof of a violation of this Policy or of a crime should you decide to pursue charges through law enforcement. If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. Do not disturb the scene—leave all sheets, towels, etc. that may bear information for the police to collect. You should also consider preserving texts, emails, social media posts, or other documentation as evidence for either a College resolution process or law enforcement action.

**4. Confidential Resources.** If a Complainant would support from confidential resources, the Complainant may speak with:

**On-Campus Confidential Resources:**
- Health Service, X1045 located in Larsen Hall
- Luther College Counseling Service, X1375 located in Larsen Hall
- Campus Ministries, X1040 located in CFL

**Off-Campus Confidential Resources:**
- Winneshiek Medical Center 563.382.2911
  (SANE exams covered free of charge within 72 hours)
- Riverview Center (sexual assault advocacy) 563.380.3332
- Helping Service (domestic and partner violence advocacy) 563.387.1720

**National Confidential Helplines:**
- National Sexual Assault Helpline 800.656.HOPE
- National Resource Center for Domestic Violence 800.799.SAFE

**Legal Resources:**
- Iowa Coalition Against Sexual Assault & Domestic Violence 515.244.7424
- Iowa Public Defender: 515.242.6158

Iowa, through the office of the Crime Victims Assistance Division, recognizes how culture, language, race, trauma, and healing can intersect with victimization. Below you will find a list of cultural specific centers available in our state:

**Amani Community Services**
- Services for African American Survivors
- Crisis Line: 888-983-2533
- Office: 319-232-5660
- Website: www.amani-cs.org
Deaf Iowans Against Abuse (DIAA)
Services for Deaf, Hard of Hearing and Deaf-Blind Survivors
Crisis Line - V/VP: 319-531-7719
Crisis Line - Text ONLY: 515-661-4015
Email: help@diaaiowa.org
Website: www.diaaiowa.org

Latinas Unidas por un Nuevo Amanecer (LUNA)
Bilingual services for Latina/o/x/e survivors.
Office 515-271-5060
Crisis Line: 866-256-7668
Website: Latinas Unidas por un Nuevo Amanecer

Resources for Indigenous Survivors (RISE)
Services for Native women, children, and families
Crisis Line - Toll-Free: 855-840-7362
Crisis Line - Call or Text: 641-481-0334
Website: www.meskwaki.org/rise/

Monsoon Asians & Pacific Islanders in Solidarity
Services for Asian and Pacific Islander survivors
Crisis Line: 866-881-4641
Iowa City Office: 319-466-9000
Website: www.monsooniowa.org

Nisaa African Women's Project
Services for African Immigrants and Refugee communities
Crisis Line: 844-269-6203
Iowa City Office: 319-338-7617
Website: www.nisaa-afs.org

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or when required to disclose by law or court order. Luther College Counseling Service is available to help free of charge and may be consulted on an emergency basis during normal business hours.

6. Reports/Complaints of Sexual Misconduct and/or Retaliation to the College

Individuals making a Report or Complaint of sexual misconduct and/or retaliation may be made using any of the following options:

(1) Report, or give verbal notice to, the Title IX Coordinator or Student Life Deans. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.
(2) Report online, using the Sexual Violence reporting form. Anonymous reports are accepted but can give rise to a need to investigate. The College tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because Reporting carries no obligation to file a formal complaint, and as the College respects Complainant requests not to pursue formal complaints unless clearly unreasonable, a Complainant is encouraged to make a report that allows the College to discuss and/or provide supportive measures.

(3) File a Report with Safety and Security by calling 563.387.2111 (available 24X7).

(4) File a Formal Complaint with the Title IX Coordinator. A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint. If a Formal Complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

7. Interim Supportive Measures

Luther College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual misconduct and/or retaliation. Supportive measures are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College’s education program or activity, including measures designed to protect the safety of all parties or the College’s educational environment, and/or deter sexual misconduct, and/or retaliation.

The Title IX Coordinator promptly makes reasonable non-punitive supportive measures available to the parties upon receiving notice or a complaint. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College’s ability to provide the supportive measures. The College will act to ensure as minimal an academic impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party. These actions may include, but are not limited to:

Students Interim Supportive Measures:

Safety

- Mutual No Contact Directive
- Campus Escorts
- Assistance in reporting to law enforcement
- Non-disclosure of campus directory information
Housing-protective housing measures after individualized analysis

- Assistance in finding alternative on-campus housing
- In an unusual circumstance permission to reside off campus

Wellbeing

- Encourage medical attention
  - Sexual Assault Nurses Exam is free within 5 days of the incident and does not process through insurance; available at Winneshiek Medical Center
  - Health Service offers free STI testing and prophylactics
- Referral to on-campus confidential resources: Health Service, Counseling Service, and College Ministries
- Referral to advocacy services: Riverview Center or Helping Services
- Referral to the Director of Case Management
- Modifications to work schedule, ensemble or practice schedule
- Personal leave of absence or voluntary withdrawal from campus

Academic (Partnered with CAE)

- Faculty notification (not disclosing the nature of the incident)
- Coordination of change in class schedule or section
- Excused absences for circumstances directly related to the harassment such as medical care or meeting with an investigator
- Extended deadlines for assignments or rescheduling exams
- Accessing academic support (e.g., tutoring)
- Arranging for course withdrawals or incomplete(s)
- Assistance or referral to Financial Aid for the preservation of academic scholarships, music scholarships, financial aid awards, or study abroad programs
- Referral to CIES for matters involving student visas

No Contact Directives are enforced after an agreement is signed; violations for non-compliance can be processed as disciplinary. For more information see the College policy on No Contact Directives.

In addition, a party may seek an order of protection, “no-contact” order, restraining order, or similar order issued by a criminal or civil process. Individuals interested in seeking a court-issued Order of Protection should contact the Winneshiek County Clerk of Court (Winneshiek County Courthouse, 201 W. Main St., Decorah, IA, 563-382-0603). If an individual obtains an order of protection from a court in Iowa, the Title IX Coordinator should receive a copy to be aware of any limitations or restrictions and to develop a plan to abide by the court order. The College cannot enforce a violation of a court order, but can assist an individual in contacting law enforcement to report a violation. If any terms of a court order are unclear in their application to the campus environment, it is up to the parties to seek clarification through the
court – the College cannot render a legal opinion or give advice other than to develop a plan to reasonably prevent violations of the order.

8. Emergency Removal

The Vice President and Dean for Student Life, the Director of Student Rights and Responsibilities and/or Title IX Coordinator, or their designee may issue an emergency removal of a student Respondent upon receiving a report of sexual misconduct and prior to the resolution of a Formal Complaint process as a temporary measure, if a Respondent is reasonably believed to pose an immediate threat to the physical health or safety of any student or other member of the Luther Community.

College personnel requested to review and assess risk and provide an individualized analysis of the emergency removal may include but not be limited to: Dean for Student Life, Title IX Coordinator, Associate Dean of Students, Director of Campus Safety and Security, Director of Counseling Service, and/or other Title IX Team Members.

Notice of Emergency Removal

The Student Life Office or Title IX Office will notify the Respondent in writing as soon as possible after being notified of the alleged misconduct. The notice will include:

- The basis for the temporary emergency removal
- The process to challenge the decision
- Appropriate contact information for questions about the terms and conditions of removal such as retrieving property from residential housing, room and board, etc.

Appropriate College personnel may be informed when deemed necessary. Personnel may include but not be limited to, student’s faculty, advisor, campus safety and security personnel, residential life, and/or coaches.

Continued Academic Progress

At times and at the discretion of the Vice President and Dean for Student Life or Director of Student Rights and Responsibilities and/or Title IX Coordinator, the student may not be able to access academic or social buildings of the College, during those times the respondent may explore opportunities for alternative coursework. It is the responsibility of the student to contact their faculty members for the consideration and to work at a continued academic success plan.

Challenge of the Emergency Removal

Respondents receiving notice of emergency removal may challenge the decision by meeting with the Vice President and Dean for Student Life or designee and presenting reasons against the emergency removal. Unless otherwise noted, the emergency removal will remain in effect until resolution of the case.
Student Presence on Campus While Separated from the College

Students who have been separated from the College through emergency removal, academic dismissal, suspension for disciplinary reasons, or for medical reasons do not have the rights and privileges accorded to full-time enrolled Luther students. Such students are expected to absent themselves from campus and to visit only with permission, given in advance, by the Student Life Office. Failure to abide by this expectation may adversely affect the decision to readmit a student.

9. Promptness

All reports of sexual misconduct are acted upon promptly by the College once it has received actual knowledge or a formal complaint. Typically, complaints can take 60-90 business days from receipt of a formal complaint to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the College’s procedures will be delayed, the College will provide notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

10. Privacy, Parental Notification and FERPA

The Family Educational Rights and Privacy Act (FERPA) is a federal law protecting the privacy of student education records.

As a college, it is our philosophy that student record management is consistent with FERPA guidelines, so we treat the student as the person who is primarily privileged to authorize the release of their student record information. Consistent with FERPA, there are certain circumstances (see below) when with or without consent of the student the College may connect with parents or guardians. In most cases, the college will only share information when the student has signed a release form specifying circumstances related to Title IX be shared. Circumstances under FERPA in which a situation may be disclosed with or without consent:

- Threat to the safety of self or others, or
- Significant concern for health requiring further medical evaluation
- Instances involving alcohol or other drugs when under the age of 21

For circumstances involving notification, parents/guardians may be notified by phone or in writing. Students who are financially independent (confirmed with the Financial Aid Office) may be considered exempt from parent/guardian notification.

Overall, the College will keep confidential the identity of any individual who has made a report or complaint of sexual misconduct, or has been identified as the perpetrator or respondent to any such report or complaint, or is a witness to any complaint or investigation, except as required to carry out the
purposes of this policy (including the conduct of any investigation, hearing, or judicial proceeding), applicable law, or as permitted by FERPA. The college believes incidents relating to sexual misconduct are of a private nature and will generally not disclose information to individuals not directly involved with or without a responsibility finding. At times, may share with other appropriate officials on a need to know basis or legitimate educational interest, consistent with FERPA and/or to carry out the provisions of this policy. This typically includes the Student Life office, Title IX office, Student Academic Support Center (academic supportive measures only) Director and Assistant Director of Campus Safety and Security, and, if necessary, the Threat Assessment Team. The circle of people with this knowledge will be kept as tight as possible to preserve the parties’ privacy.

11. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College’s jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on reports/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When a report/complaint is affected by significant time delay, the College will typically apply the policy expectations in place at the time of the alleged misconduct and the procedures in place at the time of report/complaint.

12. Online Harassment and Misconduct

The policies of Luther College are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in an educational program or activity, for instance in using the College’s networks, technology, or equipment.

While the College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to attempt to address and mitigate the effects, whether under this policy or otherwise.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social or online media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the College’s community. For more information please review the Social Media Policy.

13. Definition of Prohibited Sexual Misconduct

a. Sexual Harassment Defined
Consistent with Title IX, Luther College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses below:

1) Quid Pro Quo:

- an employee of the College
- conditions the provision of an aid, benefit, or service of the College,
- on an individual’s participation in unwelcome sexual conduct; and/or

2) Hostile Environment:

- unwelcome conduct,
- on the basis of sex,
- determined to be so severe, and
- pervasive, and,
- objectively offensive,
- that it effectively denies a person equal access to the College’s educational program or activity.

Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

3) Sexual assault, defined as:

a) Rape:

- Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person,
- without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent, whether due to incapacity or due to being below the statutory age of consent.

b) Fondling:

- The touching of the private body parts of another person (buttocks, groin, breasts),
- for the purpose of sexual gratification,
• without the consent of the Complainant, including instances in which the
  Complainant is incapable of giving consent.

c) Incest:
• Sexual intercourse,
• between persons who are related to each other within the degrees wherein
  marriage is prohibited by law.

4) Dating Violence: Violence committed by a person who has been in a romantic or intimate
relationship with another. The existence of such a relationship shall be determined based on the
Complainant's statement and with consideration of the length of the relationship, the type of
relationship, and the frequency of interaction between the persons involved in the relationship.
Violence can occur in relationships regardless of gender. Dating violence may manifest as one
act or an ongoing pattern of behavior. It can encompass a broad range of coercive, abusive,
threatening, and/or violent behaviors, including threats, assault, property damage, economic
abuse, violence or threat of violence to one's self, one's sexual or romantic partner, and/or to the
family members or friends of the sexual or romantic partner.

5) Domestic Violence: Felony or misdemeanor crime of violence committed by:
• A current or former spouse or intimate partner of the victim;
• A person with whom the victim shares a child in common;
• A person who is cohabitating with, or has cohabitated with, the victim as a spouse or
  intimate partner;
• Person similarly situated to a spouse of the victim under the laws of the State of Iowa or
  the jurisdiction in which the incident reported occurred; and
• Any other person against an adult or youth victim who is protected from that person’s act
  under the laws of the State of Iowa.

6) Stalking, defined as:
• engaging in a course of conduct,
• towards another person, that would cause a reasonable person to
  • fear bodily injury to themselves or another; or
  • Suffer substantial emotional distress.

For the purposes of this definition—
• A course of conduct means two or more acts,
• Reasonable person means a reasonable person under similar circumstances, and
• Substantial emotional distress means significant mental suffering or anguish that may but
does not necessarily require medical or other professional treatment or counseling.
b. Sexual Exploitation, Mistreatment, and Abuse

Sexual exploitation is defined as harassing, non-consensual, or abusive sexual behaviors that do not fall within the definitions of sexual harassment, fondling, rape, stalking, domestic violence, and dating violence. Sexual Exploitation includes, but is not limited to:

1) Harassing sexual or gender-based behaviors that become so severe or pervasive as to interfere with an individual’s ability to work, learn or participate in the College’s programs; these behaviors can be verbal, physical, visual, communication-based, or any combination thereof, and will be assessed using the totality of the circumstances.

2) Voyeurism and invasion of sexual privacy:
   - Observing or allowing others to observe a person undressing, using the bathroom, engaging in sexual activity, or in other private situations in which there is a reasonable expectation of privacy, without consent.
   - Taking pictures, video recording, or audio recording of a person undressing, using the bathroom, engaging in sexual activity, or in other private situations in which there is a reasonable expectation of privacy, without consent.
   - Disseminating or threatening to disseminate pictures, video, or audio recording of a person undressing, using the bathroom, engaging in sexual activity, or in other private situations in which there is a reasonable expectation of privacy, without consent (revenge porn).

3) Disrobing of another or unwelcome exposure from one person to another without consent.

4) Misappropriation of another person’s identity on apps, websites, or other venues designed for dating or sexual benefit (catfishing).

5) Intentional unwanted disclosure or threats to disclose an individual's sexual orientation, gender identity, or gender expression.

6) Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection.

7) Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person’s ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity.

8) Prostituting another person or engaging in sex trafficking.

9) Knowingly soliciting a minor for sexual activity.

10) Creation, possession, or dissemination or child pornography.

c. Consent, Incapacitation, Coercion, and Force

As used in the offenses above, the following definitions and understandings apply:

Consent is:
knowing, and
voluntary, and
clear permission
by word or action
to engage in each specific sexual 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. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction, but a display of clear communication (word or action) is necessary. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. A person can withdraw consent at any time during sexual activity by expressing in words or actions that they no longer want the act to continue, and, if that happens, the other person must stop immediately.

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. A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM (bondage, discipline/dominance, submission/sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so the College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to the policy that assumes non-kink relationships as a default.

Consent is not effective if a party is incapacitated, or it results from the use of fraud, force, threats, intimidation, or coercion.

**Incapacitation:** Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). Incapacitation can result from the use of alcohol or other controlled substances, disoriented, helpless, asleep, unconscious or from mental or physical incapacity. Incapacitation is determined through consideration of all relevant
indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

It is a defense to a sexual misconduct policy violation that the Respondent neither knew nor should have known the Complainant to be incapacitated. “Should have known” is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment. It is not an excuse that the individual respondent of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone does not constitute consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

### 14. Definition of Prohibited Retaliation

Retaliation occurs when an individual harasses or intimidates another person because that other person filed a complaint, participated in the resolution process of a violation of this Policy, supported a Complainant or Respondent, and/or acted in good faith to oppose conduct that constitutes a violation of this Policy. Harassment or intimidation includes but is not limited to threats or actual violence against the person or the person’s property, adverse educational or employment consequences, ridicule, taunting, bullying, or ostracism. Retaliation is prohibited under this policy and is expressly prohibited by Title VII, Title IX and other state and federal laws.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a resolution proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Acts of alleged retaliation should be reported immediately to the Director of Student Rights and Responsibilities and/or Title IX Coordinator and will be promptly investigated. Luther College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

### 15. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, is unresponsive to outreach from Title IX Coordinator or Deputy Title IX Coordinator or does not want a formal Complaint to be pursued, they may make a request for confidentiality or not to proceed.
under a formal complaint to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Director of Student Rights and Responsibilities and/or Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Director of Student Rights and Responsibilities and/or Title IX Coordinator may sign a formal Complaint to initiate a grievance process when it is not clearly unreasonable to do so. In making this decision, the Director of Student Rights and Responsibilities and/or Title IX Coordinator must consider the effect that non-participation by the Complainant may have on the availability of evidence and the College’s ability to pursue a Formal Grievance Process fairly and effectively.

When the Director of Student Rights and Responsibilities and/or Title IX Coordinator executes the written Complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action. If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a complaint, a Complainant has the right and can expect, to have allegations taken seriously by the College, and to have the incidents investigated and properly resolved through these procedures.

16. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the College must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The College will ensure that a Complainant’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

17. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under College policy.

18. Amnesty for Parties and Witnesses
Luther College encourages the reporting of misconduct by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the College community that Complainants choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty may not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct.

Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual misconduct to College officials.)

The College maintains a policy of amnesty for students who offer help to others in need. While policy violations cannot be overlooked, the College may provide the student with referrals for assessments and/or treatment recommendations with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to students to support their wellbeing.

20. Federal Statistical Reporting Obligations

Reports may be required to document this report for general Clery Act statistics depending on type of incident and general location (on or off-campus or in the surrounding area). The personally identifiable information of parties would remain anonymous for these statistical purposes for the Annual Security Report and daily campus crime log.

Last revised October 28, 2020

Last Reviewed: Aug 14th, 2020

1. Procedures for Violations of Sexual Misconduct Policy (non-TIX)

   1. Overview
Luther College will act on any formal Complaint of a violation of the policy on Sexual Misconduct received by the Title IX Coordinator or any other Official with Authority that fall within the scope of this policy by applying these procedures.

The procedures below apply **only** to qualifying allegations of sexual misconduct (including sexual assault, dating violence, domestic violence, stalking, and sexual exploitation as defined above) involving students.

For details relating to disability accommodations in the College’s resolution process please contact the Title IX Coordinator. At times, the Title IX Coordinator will need to consult with the Coordinator of Disability Services.

### 2. Report or Complaint

When the College receives a report of potential sexual misconduct, in most cases outreach will be done by the Title IX Coordinator with the Complainant to identify reporting options (discussed in another section) within and outside the College and to offer supportive measures.

Upon receipt of a formal complaint of a violation of this policy, the Title IX Coordinator will promptly conduct an initial assessment to determine the next steps the College needs to take. The College will initiate at least one of two responses:

1) Provide the Complainant with assistance and support only, based on the Complainant’s request that the College not take action, where that request is not clearly unreasonable;
2) Determine the circumstances do not satisfy the jurisdictional requirements of Title IX at 34 CFR 106.45 and resolve the complaint under this Policy’s informal or formal resolution procedures;

The investigation and grievance process will determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual misconduct, its potential recurrence, or effects.

### 3. Dismissal (Discretionary)

The College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal Complaint or any allegations therein; or
2) The Respondent is no longer enrolled in or employed by the College; or
3) Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal Complaint or allegations therein.

Upon dismissing the Complaint, the College will promptly notify the parties. This dismissal decision is appealable by any party. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

### 4. Counterclaims
The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims, in most circumstances, will be resolved through the same investigation and the same hearing, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

5. Right to an Advisor

The parties may each have an Advisor of their choice, at their expense, present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor. The party should choose an Advisor who can be consistently available to attend meetings during business hours. The College will attempt to schedule meetings at mutually convenient times, but cannot unduly delay the process to accommodate an Advisor with limited availability.

The College may permit parties to have one additional support Advisor in the waiting room for a hearing, such as an advocate, upon special request to the Director of Student Rights and Responsibilities and/or Title IX Coordinator 5 business days in advance of the hearing. The decision to grant this request is at the sole discretion of the Director of Student Rights and Responsibilities and/or Title IX Coordinator and will be granted equitably to all parties should each party request it.

a. Who Can Serve as an Advisor

The Advisor may be a friend, faculty or staff member, family member, attorney (at the party’s own cost), or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. For cases of sexual misconduct, the parties may choose Advisors from inside or outside of the College community.

b. Advisor’s Role

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors do not have the right to view the Hearing folder alone or independently from the Respondent. Advisors may be present to consult with during the Hearing, but may not ask questions or make comments during the hearing.

c. Pre-Interview Meetings
All Advisors must sign a Luther College Advisor Agreement Form prior to serving for a case as to understand the role and the College’s policies and procedures. Advisors are not able to speak for the parties during the investigative process.

d. Advisor Violations of College Policy

All Advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their party without disrupting proceedings. Advisors should not address College officials in a meeting or interview. The Advisor may not make a presentation or represent their party during any meeting or proceeding and may not speak on behalf of the party to the Investigator(s) or Luther College Hearing Board members.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation and hearing. Although the Advisor generally may not speak on behalf of their party, the Advisor may consult with their party, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview, or during a hearing. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

If an Advisor disrupts or otherwise fails to respect the limits of the Advisor role, the meeting will be ended or other appropriate measures implemented. Subsequently, the Director of Student Rights and Responsibilities and/or Title IX Coordinator will determine how to address the Advisor’s non-compliance and future role.

e. Expectations of an Advisor

The College generally expects an Advisor to adjust their schedule to allow them to attend the College meetings when planned, but may change scheduled meetings to accommodate an Advisor’s inability to attend, if doing so does not cause an unreasonable delay and is still completed with typical business hours. The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

f. Sharing Information with the Advisor

The College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor, but the advisor will be under the same expectations of privacy as the party. Doing so may help the parties participate more meaningfully in the resolution process.

These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College’s privacy expectations. The College may require both parties and their Advisors to enter into a
written agreement prohibiting the use or dissemination of evidence for any purpose other than those directly related to the parties’ participation in the resolution process.

6. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with the College policy. The College asks for discretion in minimizing the sharing of information so as to respect the sensitivity of this matter for all parties.

7. Alternative Resolution

Situations involving sexual misconduct are unique and present myriad difficulties for the students involved. Although Luther College believes that the formal grievance process is best equipped to address sexual misconduct within our community, the college recognizes that in some cases the parties’ needs may be best met by more flexible processes. Accordingly, the college has established a structured Alternative Resolution model that focuses on remedies, support, and accountability outside of the traditional grievance process as an additional option for Complainants.

It is not necessary to pursue Alternative Resolution first in order to pursue a Formal Grievance Process, and any party participating in Alternative Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

The College will obtain voluntary, written confirmation of the Alternative Resolution Agreement Form that all parties wish to resolve the matter through Alternative Resolution before proceeding and will not pressure the parties to participate. For more information please see the Title IX Policy.


Once the decision to commence a formal investigation is made, the Title IX Coordinator and/or the Director of Student Rights and Responsibilities appoints two investigators to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

The Title IX Coordinator and/or the Director of Student Rights and Responsibilities will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them if desired. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- The identity of the involved parties (if known),
- The misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The policies implicated,
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- Information on the right to an Advisor of their choosing,
A statement informing the parties that the College’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,

Detail on how the party may request disability accommodations during the interview process and formal grievance process,

The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Director of Student Rights and Responsibilities and/or Title IX Coordinator any conflict of interest that the Investigator(s) may have, and the parties’ rights to review and comment on investigative evidence.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

9. Resolution Timeline

The College will make a good faith effort to complete the resolution process within sixty-to-ninety (60-90) business days, including appeal. This timeline can be extended as necessary for appropriate cause by the Title IX Coordinator and/or the Director of Student Rights and Responsibilities, who will provide notice and rationale for any extensions or delays to the parties and an estimate of how much additional time will be needed to complete the process.

The investigation phase of the process is completed expeditiously in a timely manner. Though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability, and volume of witnesses, law enforcement involvement, etc.

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities, special circumstances or health conditions.

The College action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

10. Criminal Process

The College Formal Grievance 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 and employees 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.

The College will produce records in response to a lawfully issued subpoena or court order without the student or employee’s consent. When student records are requested the College will notify students of its intent to comply with as required by the FERPA regulations at 34 CFR § 99.31(a)(9). The purpose of this advance notification requirement is to afford the student an opportunity to contest the subpoena in court.
11. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process including the Director of Student Rights and Responsibilities and/or Title IX Coordinator, Investigator(s), and Hearing Board Chair and members may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator and/or the Director of Student Rights and Responsibilities will review the assigned Investigators to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator and/or the Director of Student Rights and Responsibilities will determine whether the concern is reasonable and supportable. If so, alternate personnel will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator and/or the Director of Student Rights and Responsibilities, concerns should be raised with the Director of Human Resources.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation and evidence which supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual’s status or participation as a Complainant, Respondent, or witness.

The College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

12. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses, and obtaining available relevant evidence, both incriminating and exculpatory.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps (not necessarily in this order):

- Interview the Complainant and Respondents separately. Each party will be asked to participate in an initial interview and may be asked to participate in a follow-up interview(s) as needed.
- When participation of a party is expected, provide that party with notice of the date, time, and location of the meeting
- Interview all available, deemed relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest relevant witnesses
- Allow each party the opportunity to request an expert witness at the party’s personal expense
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the Title IX Coordinator and/or the Director of Student Rights and Responsibilities throughout the investigation
Neither party will be restricted in their ability to discuss the allegations or to gather and present relevant evidence; provided, however, that such communications shall not constitute harassment of or retaliation against any party.

The Complainant and Respondent will be provided the opportunity to inspect all evidence directly related to the allegations of the formal complaint. The College may require both parties and their advisors to enter into a written agreement prohibiting the use or dissemination of evidence for any purpose other than those directly related to the parties’ participation in the resolution process.

Complainant and Respondent will be given the opportunity to inspect and review the evidence collected during the College’s investigation. The parties can waive all or part of this inspection period. The parties can waive all or part of this inspection period.

13. Role and Participation of Witnesses in the Investigation

Luther College encourages all individuals with relevant information to participate in the resolution process, and will support their participation. However, the College does not compel students to participate.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Zoom, Google Hangout, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

14. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

15. Evidentiary Considerations in the Investigation and Hearing

The investigation does not consider questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior unless such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent. At the hearing, the Board will not consider information or questions raised concerning: 1) incidents not directly related to the possible violation(s), 2) previous sexual history not related to the case, 3) personal mental health, or 4) defamation of character in regard to either party.

The Investigator(s) will only access, consider, disclose, or otherwise use a party’s treatment records made or maintained by a health care provider, or other records protected under a legally recognized privilege if the party provides the Investigator(s) with voluntary, written consent to do so.

16. Referral for Hearing
If the allegations do appear to have merit, the Director of Student Rights and Responsibilities may resolve the charges administratively by mutual consent of the parties involved on a basis acceptable to the Title IX Coordinator. Such disposition shall be final, and there shall be no subsequent proceedings.

Provided that the Complaint is not resolved through Alternative Resolution, once the final investigation report is shared with the parties, the matter will be referred for a hearing. The Director of Student Rights and Responsibilities or designee will serve as Chair (non-voting member) for the Luther College Hearing Board. The Title IX Coordinator will be present, but is not a member of the Board.

17. Hearing Board Composition

A quorum for the hearing board consists of five voting members with at least one student, one faculty member, and the Chair. The Chair will appoint the board members, considering factors such as availability, conflict of interest, and demographic balance. Hearings at or near the end of term may instead use a quorum of three, described below.

18. Disciplinary History

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

19. Evidentiary Standard

After post-hearing deliberation, the Hearing Board renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

20. Notice of Hearing and Charges

No less than seven (7) days prior to the hearing, the Chair of the Hearing Board will send notice of the hearing and charges to the parties.

The notice will contain:

- The time, date, and location of the hearing;
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Hearing Board and parties to see and hear a party or witness answering questions. Such a request must be raised with the Chair or Title IX Coordinator at least five (5) days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Hearing Board Members on the basis of demonstrated bias. This must be raised with the Title IX Coordinator prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing. An invitation to contact the Title IX Coordinator and/or the Director of Student Rights and Responsibilities to arrange any disability accommodations, language assistance, and/or
interpretation services that may be needed at the hearing, at least five (5) days prior to the hearing.

● Parties may not bring mobile phones or electronic/recording devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (for example, during finals, break periods, January Term, or over the summer) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline and goal for resolution. A quorum of three (one faculty, one staff, and one student) rather than five will be required for these hearings.

21. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator and/or the Director of Student Rights and Responsibilities at least five (5) days prior to the hearing. The hearing will proceed with or without the participation of parties and/or witnesses.

The Title IX Coordinator and/or the Director of Student Rights and Responsibilities can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator and/or the Director of Student Rights and Responsibilities know at least five (5) days prior to the hearing or in ideal situations during the investigation so that appropriate arrangements can be made.

22. Pre-Hearing Preparation

The Chair, after any necessary consultation with the parties, Investigator(s), and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing and all pertinent documentary evidence to the parties prior to the hearing.

The Chair or designee will notify witnesses of the hearing date and time and that their presence has been requested. Any witness called by the Chair will also be expected to answer questions from the parties.

Any witness (including expert witnesses) scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness’s participation in the hearing. The same holds for any evidence that is first offered at the hearing.

The parties will be given a list of the Hearing Board members at least seven (7) business days in advance of the hearing unless recusals occur. All objections to any hearing board members must be raised in writing, detailing the rationale for the objection, and must be submitted to the Director of Student Rights and Responsibilities and/or Title IX Coordinator as soon as possible and no later than five (5) days prior to the hearing. Hearing Board members will only be removed if the Director of Student Rights and Responsibilities and/or Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

Any hearing board member who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties and witnesses in advance of the hearing. If a
hearing board member is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator and Chair as soon as possible.

During the seven (7) day period prior to the hearing, the parties have the opportunity for continued review on the final investigation report and available evidence.

### 23. Hearing Procedures

At the hearing, the Hearing Board has the authority to hear and make determinations on all allegations of sexual misconduct and/or retaliation. Participants at the hearing may include the Chair, hearing board members, the Investigator(s) who conducted the investigation, the Complainant and Respondent, Advisors to the parties, any called witnesses, the Title IX Coordinator, legal counsel retained by the College, and anyone providing authorized accommodations or assistive services.

The Chair or Title IX Coordinator will answer all questions of procedure. Anyone appearing at the hearing to provide information (such as a witness, expert witness or investigator) will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the hearing board and the parties will then be excused.

### 24. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator and/or Director of Student Rights and Responsibilities may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

### 25. The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants.

The Chair conducts the hearing according to a hearing script. The Chair facilitates the recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process with assistance provided by the Title IX Coordinator. The hearing typically begins with opening statements from the parties sharing vital content, series of questioning, questioning of witnesses, questions submitted for cross-examination, final questioning and closing statements.

### 26. Testimony and Questioning
At times, the Investigator(s) may be present at hearings and questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Hearing Board and then by the parties through the Chair.

All questions are subject to a relevance determination by the Chair. The Chair will determine whether the question will be disallowed as irrelevant and pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request or agreed to by the parties and the Chair).

27. Recording Hearings

Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Chair, the parties, their Advisors, and appropriate administrators of the College will be permitted to listen to the recording in a controlled environment determined by the Director of Student Rights and Responsibilities and/or Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Director of Student Rights and Responsibilities and/or Title IX Coordinator.

28. Deliberation, Decision-making, and Standard of Proof

The Hearing Board will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The Title IX Coordinator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally and take notes, not to address the substance of the allegations.

The Hearing Board will review any pertinent conduct history provided by the Director of Student Rights and Responsibilities. Then the Board will determine the appropriate sanction(s).

29. Notice of Outcome

The Chair, in collaboration with the Title IX Coordinator, will prepare a written Notice of Outcome detailing the determination, rationale, the evidence used in support of its determination, and any sanctions.

At the discretion of the Director of Student Rights and Responsibilities and/or Title IX Coordinator, the Notice of Outcome may be reviewed by legal counsel. The Chair will then share the Notice of Outcome simultaneously with the parties.

The Notice of Outcome will be in writing and specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; any sanctions issued; and any remedies provided to the Complainant designed to ensure access to the College’s educational program or activity.
The Notice of Outcome will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

30. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent’s disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Institutional precedent for how similar infractions have been addressed
- Any other information deemed relevant by the Hearing Board

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

a. Sanctions

The following are the range of sanctions that may be imposed upon students or organizations singly or in combination:

- **Unilateral No Contact Directive**: A mandate to have no avoidable contact with one or more individuals. May include restrictions from being present in another student’s classes, residence hall, or student organizations.
- **Educational Sanctions**: A directive to complete specified educational programs or projects to better comprehend the misconduct and its effects.
- **Mental Health or Substance Abuse Evaluation**: A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the behavior and its effects or contributing factors thereto, such as substance abuse, anger management, or other mental health issues.
- **Probation**: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact directives, and/or other measures deemed appropriate.
- **Residence Hall Suspension:** Termination of a student’s right to live or be present in College-owned housing for a definite period of time.
- **Suspension:** Termination of student status for a definite period of time not to exceed three years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at Luther College.
- **Expulsion:** Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events.
- **Organizational Sanctions:** Deactivation, loss of recognition, loss of some or all privileges (including College registration) for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

In all cases, the Hearing Board and Campus Appeals Board reserve the right to broaden or lessen any range of recommended sanctions to address mitigating circumstances or repeated or egregious behavior.

### 31. Withdrawal While Charges Pending

Should a student decide to not participate in the resolution process, the process may proceed absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the College, the resolution process may end, as the College no longer has disciplinary jurisdiction over the withdrawn student. The student who withdraws or leaves while the process is pending may not return to Luther College. A hold will be placed on their ability to be readmitted. They may also be barred from College property and/or events.

However, the College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

*If the student Respondent takes a temporary leave for a specified period of time (e.g., one semester or term), the resolution process will continue remotely and that student is not permitted to return to the College unless and until all resolution terms have been satisfied.*

*During the resolution process, the College may put a hold on a responding student’s record or dean’s disciplinary certification that a disciplinary matter is pending.*

### 32. Appeals

1. A decision reached by the Hearing Board may be appealed by either party to the Campus Appeals Board within seven days of the decision. Such appeals shall be in writing, stating the basis for the appeal, and shall be delivered to Corey Landstrom, Vice President and Dean for Student Life, at Dahl Centennial Union 266 or via email at clandstrom@luther.edu.

2. Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the hearing and supporting documents for one or more of the following purposes:
   a. Deviations from designated procedures within the investigation or adjudication processes, which could have affected the outcome;
b. A conflict of interest or the bias of the Director of Student Rights and Responsibilities and/or Title IX Coordinator, investigator or member of the Hearing Board sufficient to have affected the outcome;
c. To determine whether the sanctions imposed were appropriate for the violation of the Policy which the student was found to have committed.
d. To consider new information or other relevant facts not brought out in the original hearing, sufficient to alter a decision, because such information and/or facts were not known or available to the person appealing at the time of the original hearing. If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeals Board Chair and the parties will be notified in writing of the denial and the rationale.

4. The Campus Appeals Board is comprised of three members including one faculty member, typically the Chair of the Faculty Interest Committee; one student, typically the President of the Luther College Student Senate; and the Vice President and Dean for Student Life.

5. The non-appealing party (if any) must be notified in writing of the appeal, and given an opportunity to provide a written statement challenging or supporting the appeal.

The Appeals Board Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses to be shared with the Appeals Board, and the Appeals Board will render a decision in no more than 10 days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration and any sanctions. If an appeal is upheld by the Campus Appeals Board, the matter may be returned to the original Hearing Board for re-opening of the case to allow reconsideration of the original determination. If an appeal is upheld with respect to sanctions, the Campus Appeals Board may adjust sanctions or choose to refer the case back to the Hearing Board for consideration of sanctions. If an appeal is not upheld, the matter shall be considered final and binding upon all involved.

a. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing will be in effect during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

b. Appeal Considerations

● Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation, recording of the original hearing and pertinent documentation regarding the specific grounds for appeal.
● An appeal is not an opportunity for the Campus Appeals Board to substitute their judgment for that of the original Hearing Board merely because they disagree with the finding and/or sanction(s).
● The Campus Appeals Board may consult with the Chair and/or Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.

● Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Hearing Board for reconsideration. Other appeals may be remanded at the discretion of the Director of Student Rights and Responsibilities and/or Title IX Coordinator or, in limited circumstances, decided on appeal.

● Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). When appeals result in no change to the finding or sanction, that decision is final.

● In rare cases where a procedural or substantive error cannot be cured by the original Hearing Board (as in cases of bias), the appeal may order a new hearing with a new Hearing Board.

● The results of a new hearing can be appealed, once, on any of the available appeal grounds.

● In cases in which the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

33. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator and/or Director of Student Rights and Responsibilities may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual misconduct and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

● Referral to counseling, college ministries, and health services
● Education to the individual and/or the community
● Permanent alteration of housing assignments
● Permanent priority on classroom registration
● Permanent alteration of work arrangements for student employee
● Provision of campus safety escorts
● Climate surveys
● Policy modification and/or training
● Implementation of long-term contact limitations between the parties
● Implementation of adjustments to academic deadlines, course schedules, etc.

For long-term support or measures parties may be referred to other campus resources such as Case Management or Disability Services. When no policy violation is found, the Director of Student Rights and Responsibilities and/or Title IX Coordinator will address any remedies owed by the College to the Respondent to ensure no effective denial of educational access.

34. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions
All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the Hearing Board and Campus Appeals Board.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College.

A Respondent will only be eligible for readmission from suspension when compliance is achieved to the satisfaction of the Director of Student Rights and Responsibilities and/or Title IX Coordinator.

35. Recordkeeping

Luther College will maintain for a period of at least seven years records of:

1) Each sexual misconduct investigation including any determination regarding responsibility and any audio or audiovisual recording;
2) Any disciplinary sanctions imposed on the Respondent;
3) Any remedies provided to the Complainant designed to restore or preserve equal access to the College’s education program or activity;
4) Any appeal and the result therefrom;
5) Any Alternative or Informal Resolution and the result therefrom;
6) All materials used to train Title IX Coordinators, Investigators, Hearing Board members, Campus Appeals Board members, and any person who facilitates an Informal Resolution process. The College will make these training materials publicly available on the College’s Title IX website; and
7) Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual misconduct, including:
   a. The basis for all conclusions that the response was not deliberately indifferent;
   b. Any measures designed to restore or preserve equal access to the College’s education program or activity; and
   c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Title IX Team, Investigators, Chairs, Hearing Board Members and Appeal Board Members:

These individuals receive annual training based on their respective roles on the topics of 1) impartiality, 2) avoiding prejudgment of facts at issue, 3) conflicts of interest and bias, 4) the College’s resolution processes, 5) issues of relevance and evidence, 6) the scope of the College’s educational programs and activities, 7) types of harassment and discrimination; and (8) how to conduct an investigation and hearing process that protects the rights, well-being, and safety of the parties, provides an equitable process for all parties involved, and promotes accountability. The materials used to train these individuals are publicly posted here: https://www.luther.edu/titleix/training-materials/.

36. Revision of this Policy and Procedures
This Policy and procedures supersede any previous policy(ies) will be reviewed and updated annually by the Director of Student Rights and Responsibilities in consultation with the Title IX Coordinator. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Director of Student Rights and Responsibilities and/or Title IX Coordinator may make minor modifications to procedures in order to preserve the fairness owed the parties. The Director of Student Rights and Responsibilities and/or Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This policy is not a contract and does not create legally enforceable protections based on contract, quasi-contract, or third-party beneficiary status.

This interim policy and procedures are effective August 14, 2020.

THE FOLLOWING STATEMENT MUST APPEAR IN ANY VERSION OF THIS MODEL USED BY A LICENSEE:

ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL
USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED THROUGH A LIMITED LICENSE TO LUTHER COLLEGE
ALL OTHER RIGHTS RESERVED. ©2020. ATIXA

Last revised October 28, 2020

Last Reviewed: Aug 14th, 2020
Luther College
Interim Sexual Harassment Policy
Title IX POLICY: Sexual Harassment

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

1. Glossary

- **Actual Knowledge** means notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any Official with Authority of the College.

- **Advisor** means a person chosen by a party, or appointed by the College only if a party does not have an advisor at hearing, to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

- **Alternative Resolution** is an *Informal Process* in which the college uses voluntary informal procedures such as shuttle negotiations or restorative practices to reach resolution.

- **Campus Appeal Board** is composed of three members including one faculty member, one student, and the Vice President and Dean for Student Life. The appeals board will consider party appeals in regard to a decision reached by the Hearing Board.

- **Campus Security Authority (CSA)** is an official of the College who has significant responsibility for students and/or campus activities, including but not limited to student housing, student discipline, athletics, and student organizations. CSAs must report all information known about campus-related crimes defined in the Jeanne Clery Act to Campus Safety and Security and/or the Title IX Coordinator. Some of these crimes include Sexual Assault (Rape, Fondling, Incest) and Dating Violence, Domestic Violence, and Stalking. Employees at Luther who are considered a CSA are: Wellness Staff, Student Activities Staff, Athletic Directors, Coaches, Ensemble Directors, and CGL Staff as well as any faculty or staff member who advises a student organization.

- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. At the time of filing the complaint, a complainant must be participating in or attempting to participate in the education program or activity of the College.

- **Complaint (formal)** means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment against a Respondent.

- **Confidential Resource** means an employee, person, or entity who by a legal privilege, professional obligation, or otherwise must maintain confidence of communications,
including reports of discrimination or harassment. At Luther College confidential resources are Health Service, Counseling Service, and College Ministries. Confidential resources may report when substantial information is presented as a serious threat to self or others or in situations/cases as required by law.

- **Confidentiality** exists in certain relationships privileged or protected by law, including those who provide services related to medical and clinical care, mental health providers (Health Service), counselors (Counseling Service), and ordained clergy (Campus Ministries). Confidentiality is distinct from privacy (see below).

- **Day** means a business day when the College is in normal operation. The College’s normal hours of operation are Monday-Friday, 8:00-5:00 PM, excluding days when the campus is closed.

- **Education program or activity** means locations, events, or circumstances where the College exercises substantial control over both the Respondent and the context in which the alleged sexual harassment occurs.

- **Employee** refers to any member of the faculty or any regular staff employee, or any temporary staff employee whose primary relationship to the College is one an employee. (This does not include RAs for work-study.)

- **Formal Grievance Process** means a method of formal resolution through a live hearing designated by the College to address conduct that falls under Title IX as described within the policies included below, and which complies with the requirements of 34 CFR Part 106.45.

- **Hearing Board (“Board”)** refers to those who have decision-making and sanctioning authority within the College’s Formal Grievance process. The Board is comprised of faculty, staff and students.

- **Investigator** means a person or persons charged by the College with gathering facts about an alleged violation of this Policy, assessing relevance, synthesizing the evidence, and compiling this information into a final investigation report and file of directly related evidence.

- **Notice of Outcome** a letter stating the conclusion based on the preponderance of evidence standard.

- **Official with Authority** (OWA) means an employee of the College explicitly vested with the responsibility to implement corrective measures for Policy violations on behalf of the College.

- **Parties** are the Complainant(s) and Respondent(s), collectively.

- **Privacy** means that information related to a complaint will be shared with a limited number of Luther College employees who “need to know” in order to assist in the assessment,
investigation, and resolution of the report. Privacy is distinct from confidentiality (see above).

- **Remedies** are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the College’s educational program.

- **Report** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of sexual harassment, and/or retaliatory conduct.

- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation.

- **Required Referral** Employees of the College who are not confidential resources and not an OWA or CSA are expected to make “required referrals,” meaning that all non-confidential employees must submit information obtained about known or suspected sexual harassment to the Title IX Coordinator or any other member of the Title IX team. In some situations, the name of the Complainant may not be required, but it would be expected that the employee would share resources with the Complainant as directed by the Title IX Coordinator.

- **Resolution** means the result of an Informal or Formal Grievance Process.

- **Sanction** means a consequence imposed by the College on a Respondent who is found to have violated this policy. Sanctions may be educational or punitive.

- **Sexual Harassment** has the meaning stated at 34 CFR § 106.30 and includes the offenses of quid pro quo, sexual harassment, sexual assault, stalking, and dating violence and domestic violence.

- **Student** includes all persons taking courses at Luther College, either full time or part time. Persons who withdraw or are suspended after allegedly violating the Code of Conduct, who are not officially enrolled for a particular term but who have a continuing relationship with Luther College or who have accepted offers of admission are considered students, as are persons who are living in Luther College residence halls, although not enrolled in this institution.

- **Title IX Coordinator** is the official designated by Luther College to ensure compliance with Title IX and the College’s Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

- **Title IX Team** refers to the Title IX Coordinator, any deputy coordinators, and any member of the Title IX Process including investigators, chairs, and those coordinating supportive measures.
2. Rationale for Policy

The core purpose of this policy is the prohibition of all forms of sexual harassment, which includes sexual assault, dating, domestic violence, and stalking. 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, fair and equitable report/complaint resolution process, and ensuring enforcement of institutional policy and law. The College seeks to balance the rights, needs, and privacy of those students and employees who may have been victimized, as well as those students or employees who have been accused, while maintaining the health and safety of the campus community.

This policy describes prohibited conduct; 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.

3. Applicable Scope

To establish a procedure for preventing and remediating reports and complaints of sexual harassment, which includes sexual assault, dating violence, domestic violence, and stalking as defined herein, as well as retaliation against an individual for exercising rights under this policy. It is intended to ensure that the College’s policies and procedures related to sexual harassment are interpreted and applied consistently with Title IX, the Clery Act, and other applicable law.

The College’s scope under Title IX is limited to its educational programs or activities, as well as any building owned or controlled by a student organization that is officially recognized by the College, such as a fraternity or sorority. The College’s scope under Title IX is also limited to conduct against a person that occurs in the United States.

Any person may file a complaint alleging sexual harassment against a student or employee of the College. If a report or complaint falls under the College’s scope under Title IX, the College will utilize this policy and the related procedures to respond to claims of sexual harassment and will not proceed under any other College policy or procedure if doing so would interfere with any right or privilege provided to a party under Title IX. If the College determines that a report or complaint does not fall under the College’s scope under Title IX, the College may still take action for such alleged conduct based on the nature of the alleged conduct, including under the College’s Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy and Procedures. Additionally, if the Respondent is unknown or is not a member of the College’s community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Further, even when the Respondent is not a member of the College’s community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator. In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from College property and/or events by issuing a No Trespass Order. When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the
Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution’s policies. Similarly, the Title IX Coordinator may be able to coordinate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers. This includes Sodexo employees who work in Dining Services and Ricoh employees who work in the Mail Center and Document Center.

4. Title IX Coordinator

Kasey Nikkel serves as the Title IX Coordinator and oversees implementation of the College’s policy on sexual harassment. The Title IX Coordinator has the primary responsibility for coordinating the College’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment and retaliation prohibited under this policy.

5. Independence and Conflict-of-Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are appointed and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias, misconduct or conflict of interest by the Title IX Coordinator, contact the Director of Human Resources, Marsha Wenthold, at mwenthold@luther.edu or (563)387-1415. Concerns of bias, a potential conflict of interest, discrimination, or misconduct by any other Title IX Team member should be raised with the Title IX Coordinator.

6. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Kasey Nikkel
Title IX Coordinator
Human Resources
Main 30
(563) 387-1825
Email: kasey.nikkel@luther.edu
Web: https://www.luther.edu/titleix/
A party may also contact the Assistant Secretary for Civil Rights of the United States Department of Education.

Inquiries may be made externally to:
Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: https://www2.ed.gov/about/offices/list/ocr/index.html

For complaints involving employees: (EEOC).
EEOC Headquarters
131 Main Street, NE
Washington, D.C. 20507
Customer Service Hotline: (800) 669-4000
Email: info@eeoc.gov
Web: https://www.eeoc.gov/

7. Steps to Take Immediately Following Sexual and/or Physical Violence

Many people who experience sexual and/or physical violence do not know where to turn for help or what steps to take. The choices about which options to explore rest with the victim, and those who experience sexual or physical violence should consider the following steps:

1. **Contact local law enforcement** (911). The Title IX Coordinator, Deans of Student Life, or another member of the Title IX Team can assist with contacting law enforcement, but no victim/supervisor is required to contact law enforcement. You can also file a report with Safety and Security by calling (563) 387-2111 (available 24X7).

2. **Seek immediate medical attention.** Those who experience sexual and/or physical violence are strongly encouraged to seek immediate medical attention at an area hospital or medical clinic, such as:

   - Winnesheik Medical Center (563) 382-2911
   - (SANE (Sexual Assault Nurses Exam) is free of charge within 5 days)
   - Riverview Center (sexual assault advocacy) (563) 380-3332
   - Helping Service (domestic and partner violence advocacy)(563) 387-1720

Please be aware that hospital personnel may be obligated to contact proper authorities regarding reported violence. Although you are not obligated to do so, those who experience sexual and/or physical violence are highly encouraged to take advantage of victim’s services to help understand options for off-campus proceedings and receive counseling.
3. **Preserve Evidence.** In the event of a sexual assault, if at all possible, do not change clothes, shower, bathe, douche, defecate, or urinate prior to seeking medical attention. Emergency room personnel are trained to check for injuries and collect physical evidence. It is important to preserve evidence for the proof of a violation of this Policy or of a crime should you decide to pursue charges through law enforcement. If you have not changed clothes, bring a change of clothes with you to the hospital, if possible. A SANE nurse will likely keep the clothes you are wearing as evidence. Do not disturb the scene—leave all sheets, towels, etc. that may bear information for the police to collect. You should also consider preserving texts, emails, social media posts, or other documentation as evidence for either a College resolution process or law enforcement action.

4. **Confidential Resources.** If a Complainant would like support from confidential resources, the Complainant may speak with:

   **On-Campus Confidential Resources:**
   - Health Service, X1045 located in Larsen Hall
   - Luther College Counseling Service, X1375 located in Larsen Hall
   - Campus Ministries, X1040 located in CFL

   **Off-Campus Confidential Resources:**
   - Winneshiek Medical Center (563) 382-2911 *(SANE exams covered free of charge within 5 days)*
   - Riverview Center (sexual assault advocacy) (563) 380-3332
   - Helping Service (domestic and partner violence advocacy) (563) 387-1720

   **National Confidential Helplines:**
   - National Sexual Assault Helpline (800) 656-HOPE (4673)
   - National Resource Center for Domestic Violence (800) 799-SAFE (7233)
   - The Trevor Project (866) 488-7386

   **Legal Resources:**
   - Iowa Coalition Against Sexual Assault & Domestic Violence (515) 244-7424
   - Iowa Public Defender: (515) 242-6158

   Iowa, through the office of the Crime Victims Assistance Division, recognizes how culture, language, race, trauma, and healing can intersect with victimization. Below you will find a list of cultural specific centers available in our state:

   **Amani Community Services**
   Services for African American Survivors
   Crisis Line: (888) 983-2533
   Office: (319) 232-5660
   Website: [www.amani-cs.org](http://www.amani-cs.org)

   **Deaf Iowans Against Abuse (DIAA)**
Services for Deaf, Hard of Hearing and Deaf-Blind Survivors
Crisis Line - V/VP: (319) 531-7719
Crisis Line - Text ONLY: (515) 661-4015
Email: help@diaaiowa.org
Website: www.diaaiowa.org

Latinas Unidas por un Nuevo Amanecer (LUNA)
Bilingual services for Latina/o/x/e survivors.
Office: (515) 271-5060
Crisis Line: (866) 256-7668

Resources for Indigenous Survivors (RISE)
Services for Native women, children, and families
Crisis Line - Toll-Free: (855) 840-7362
Crisis Line - Call or Text: (641) 481-0334
Website: www.meskwaki.org/rise/

Monsoon Asians & Pacific Islanders in Solidarity
Services for Asian and Pacific Islander survivors
Crisis Line: (866) 881-4641
Iowa City Office: (319) 466-9000
Website: www.monsooniowa.org

Nisaa African Women's Project
Services for African Immigrants and Refugee communities
Crisis Line: (844) 269-6203
Iowa City Office: (319) 338-7617
Website: www.nisaa-afs.org

All of the above-listed organizations will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or when required to disclose by law or court order.

Luther College Counseling Service (for students) and/or the Employee Assistance Program (for employees) are available to help free of charge and may be consulted on an emergency basis during normal business hours.

8. Reports/Complaints of Sexual Harassment and/or Retaliation to the College

Individuals making a Report or Complaint of sexual harassment and/or retaliation may use any of the following options:
(1) Report, or give verbal notice to, the Title IX Coordinator. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address listed for the Title IX Coordinator.

(2) Report online, using the Sexual Violence reporting form. Anonymous reports are accepted but can give rise to a need to investigate. The College tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because Reporting carries no obligation to file a formal complaint, and as the College respects Complainant requests not to pursue formal complaints unless clearly unreasonable, a Complainant is encouraged to make a report that allows the College to discuss and/or provide supportive measures.

(3) File a Report with Safety and Security by calling (563) 387-2111 (available 24X7).

(4) File a Formal Complaint with the Title IX Coordinator. A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint. If a Formal Complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

9. Interim Supportive Measures

Luther College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation. Supportive measures are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the College’s education program or activity, including measures designed to protect the safety of all parties or the College’s educational environment, and/or deter sexual harassment, and/or retaliation.

The Title IX Coordinator promptly makes reasonable non-punitive supportive measures available to the parties upon receiving notice or a complaint. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College’s ability to provide the supportive measures. The College will act to ensure as minimal an academic impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:
Students Interim Supportive Measures:

Safety
- Mutual No Contact Directive
- Campus Escorts
- Assistance in reporting to law enforcement
- Non-disclosure of campus directory information

Housing-protective measures after individualized analysis
- Assistance in finding alternative on-campus housing
- In an unusual circumstance, permission to reside off campus

Well-being
- Encourage medical attention
  - Sexual Assault Nurses Exam is free within 5 days of the incident and does not process through insurance; available at Winneshiek Medical Center
  - Health Service offers free STI testing and prophylactics
- Referral to on-campus confidential resources: Health Service, Counseling Service, and College Ministries
- Referral to advocacy services: Riverview Center or Helping Services
- Referral to the Director of Case Management
- Modifications to work schedule, ensemble or practice schedule
- Personal leave of absence or voluntary withdrawal from campus

Academic (Partnered with SASC)
- Faculty notification (not disclosing the nature of the incident)
- Coordination of change in class schedule or section
- Excused absences for circumstances directly related to the harassment such as medical care or meeting with an investigator
- Extended deadlines for assignments or rescheduling exams
- Accessing academic support (e.g., tutoring)
- Arranging for course withdrawals or incomplete(s)
- Assistance or referral to Financial Aid for the preservation of academic scholarships, music scholarships, financial aid awards, or study abroad programs
- Referral to CIES for matters involving student visas

Employee Interim Supportive Measures

Well-being
- Referral to the Employee Assistance Program
- Encouragement to seek medical attention
  - Sexual Assault Nurses Exam is free within 5 days of the incident and does not process through insurance; available at Winneshiek Medical Center
- Referral to advocacy services: Riverview Center or Helping Services
- Modification to work schedule
- Leave of absence
Safety
- Mutual No Contact Directive
- Campus Escorts
- Assistance in reporting to law enforcement

No Contact Directives are enforced after an agreement is signed; violations for non-compliance can be processed as disciplinary. For more information see the College policy on No Contact Directives.

In addition, a party may seek an order of protection, “no-contact” order, restraining order, or similar order issued by a criminal or civil process. Individuals interested in seeking a court-issued Order of Protection should contact the Winnebago County Clerk of Court (Winnebago County Courthouse, 201 W. Main St., Decorah, IA, (563) 382-0603. If an individual obtains an order of protection from a court in Iowa, the Title IX Coordinator should receive a copy to be aware of any limitations or restrictions and to develop a plan to abide by the court order. The College cannot enforce a violation of a court order, but can assist an individual in contacting law enforcement to report a violation. If any terms of a court order are unclear in their application to the campus environment, it is up to the parties to seek clarification through the court – the College cannot render a legal opinion or give advice other than to develop a plan to reasonably prevent violations of the order.

**10a. Emergency Removal (Student)**
The Vice President and Dean for Student Life, the Title IX Coordinator, or their designee may issue an emergency removal of a student Respondent upon receiving a report of sexual harassment and prior to the resolution of a Formal Complaint process as a temporary measure, if a Respondent is reasonably believed to pose an immediate threat to the physical health or safety of any student or other member of the Luther Community.

College personnel requested to review and assess risk and provide an individualized analysis of the emergency removal may include but not be limited to: Dean for Student Life, Title IX Coordinator, Associate Dean of Students, Director of Campus Safety and Security, Director of Counseling Service, and/or other Title IX Team Members.

**Notice of Emergency Removal**
The Student Life Office or Title IX Office will notify the Respondent in writing as soon as possible after being notified of the alleged misconduct.
The notice will include:
1. The basis for the temporary emergency removal
2. The process to challenge the decision
3. Appropriate contact information for questions about the terms and conditions of removal such as retrieving property from residential housing, room and board, etc.

Appropriate College personnel may be informed when deemed necessary. Personnel may include but not be limited to, student’s faculty, advisor, campus safety and security personnel, residential life personnel, and/or coaches.

**Continued Academic Progress**
At times and at the discretion of the Vice President and Dean for Student Life or Title IX Coordinator, the student may not be able to access academic or social buildings of the College, during those times the respondent may explore opportunities for alternative coursework. It is the responsibility of the student to contact faculty members for their consideration to work on a continued academic success plan.

**Challenge of the Emergency Removal**

Respondents receiving notice of emergency removal may challenge the decision by meeting with the Vice President and Dean for Student Life or designee and presenting reasons against the emergency removal. Unless otherwise noted, the emergency removal will remain in effect until resolution of the case.

**Student Presence on Campus While Separated from the College**

Students who have been separated from the College through emergency removal, academic dismissal, suspension for disciplinary reasons, or for medical reasons do not have the rights and privileges accorded to full-time enrolled Luther students. Such students are expected to absent themselves from campus and to visit only with permission, given in advance, by the Student Life Office. Failure to abide by this expectation may adversely affect the decision to readmit a student.

### 10b. Administrative Leave (employees)

The Title IX Coordinator, in consultation with Human Resources and/or Academic Dean and consistent with applicable policies, procedures, and/or agreements, may issue an administrative leave for an employee respondent from the employee’s work environment or classroom.

Employees may be subject to emergency removal when:

- The employee is a person of interest in a law enforcement investigation involving a criminal sex offense
- The employee is considered a direct threat to self or others, or
- The employee is the subject of an egregious allegation of sexual harassment that impacts the employee’s ability to work effectively.

In most cases involving employees, the College will initiate an investigation into the allegation to determine relevant facts of the case prior to an issuance of an emergency removal. However, for more egregious allegations the College may act on the administrative withdrawal based on the initial report as a temporary measure. In most cases, the employee will be placed on paid leave.

**Employee Presence on Campus While Separated from the College**

Employees who have been separated from the College for administrative leave or disciplinary reasons do not have the rights and privileges of other employees. Luther College may restrict access to the employee’s Luther email, networks, or other College property. Such employees are expected to absent themselves from campus and to visit only with permission, given in advance, by the Human Resources office. Failure to abide by this expectation may be treated as insubordination.

### 11. Promptness
All reports of sexual harassment are acted upon promptly by the College once it has received actual knowledge or a Formal Complaint. Typically, complaints can take 60-90 business days from receipt of a Formal Complaint to resolve. There may be exceptions and extenuating circumstances that could cause a resolution to take longer, but the College will avoid all undue delays within its control.

Whenever the general timeframes for resolution outlined in the College’s procedures will be delayed, the College will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

12. Privacy, Parental Notification and FERPA

The Family Educational Rights and Privacy Act (FERPA) is a federal law protecting the privacy of student education records.

As a college, it is our philosophy that student record management is consistent with FERPA guidelines, so we treat the students as the people who are primarily privileged to authorize the release of their student record information. Consistent with FERPA, there are certain circumstances (see below) when with or without consent of the student the College may connect with parents or guardians. In most cases, the college will only share information when the student has signed a release form specifying circumstances related to Title IX be shared. Circumstances under FERPA in which a situation may be disclosed with or without consent:

- Threat to the safety of self or others, or
- Significant concern for health requiring further medical evaluation

For circumstances involving notification, parents/guardians may be notified by phone or in writing. Students who are financially independent (confirmed with the Financial Aid Office) may be considered exempt from parent/guardian notification.

Overall, the College will keep confidential the identity of any individual who has made a report or complaint of sexual harassment, or has been identified as the perpetrator or respondent to any such report or complaint, or is a witness to any complaint or investigation, except as required to carry out the purposes of this policy (including the conduct of any investigation, hearing, or judicial proceeding), applicable law, or as permitted by FERPA. The college believes incidents relating to sexual harassment are of a private nature and will generally not disclose information to individuals not directly involved with or without a responsibility finding. At times, may share with other appropriate officials on a need to know basis or legitimate educational interest, consistent with FERPA and/or to carry out the provisions of this policy. This typically includes the Student Life office, Title IX office, Student Academic Support Center (academic supportive measures only) Director and Assistant Director of Campus Safety and Security, and, if necessary, the Threat Assessment Team. The circle of people with this knowledge will be kept as tight as possible to preserve the parties’ privacy.

The privacy of employee records will be protected in accordance with Human Resources policies. Only a small group of officials who need to know will typically be told about the complaint,
including but not limited to: Human Resources office, Title IX office, the appropriate vice president, Campus Safety and Security, and, if necessary, the Threat Assessment Team. The circle of people with this knowledge will be kept as tight as possible to preserve the parties’ privacy. An employee’s supervisor is not typically notified of circumstances related to Title IX.

13. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College’s jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on reports/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When a report/complaint is affected by significant time delay, the College will typically apply the policy expectations in place at the time of the alleged misconduct and the procedures in place at the time of report/complaint.

14. Online Harassment and Misconduct

The policies of Luther College are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in an educational program or activity, for instance in using the College’s networks, technology, or equipment.

While the College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the College, it will engage in a variety of means to attempt to address and mitigate the effects, whether under this policy or otherwise.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social or online media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the College’s community. For more information please review the Social Media Policy.

15. Definition of Prohibited Sexual Harassment

a. Sexual Harassment Defined

Consistent with Title IX, Luther College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well. Acts of sexual harassment are defined as being committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.
Sexual Harassment, as an umbrella category, includes the offenses below:

1) Quid Pro Quo:
   a. an employee of the College
   b. conditions the provision of an aid, benefit, or service of the College,
   c. on an individual’s participation in unwelcome sexual conduct; and/or

2) Hostile Environment:
   a. unwelcome conduct,
   b. on the basis of sex,
   c. determined to be so severe, and
   d. pervasive, and,
   e. objectively offensive,
   f. that it effectively denies a person equal access to the College’s educational
      program or activity.

Unwelcomeness is subjective and determined by the Complainant (except when the
Complainant is below the age of consent). Severity, pervasiveness, and objective
offensiveness are evaluated based on the totality of the circumstances from the
perspective of a reasonable person in the same or similar circumstances, including the
context in which the alleged incident occurred and any similar, previous patterns that
may be evidenced.

3) Sexual assault, defined as:
   a) Rape:
      i) Penetration, no matter how slight, of the vagina or anus with any body
         part or object, or oral penetration by a sex organ of another person,
      ii) without the consent of the Complainant, including instances in which
         the Complainant is incapable of giving consent, whether due to
         incapacity or due to being below the statutory age of consent.
   b) Fondling:
      i) The touching of the private body parts of another person (buttocks,
         groin, breasts),
      ii) for the purpose of sexual gratification,
      iii) without the consent of the Complainant, including instances in which
         the Complainant is incapable of giving consent.
   c) Incest:
      i) Sexual intercourse,
      ii) between persons who are related to each other within the degrees
         wherein marriage is prohibited by law.

4) Dating Violence: Violence committed by a person who has been in a romantic or
   intimate relationship with another. The existence of such a relationship shall be
determined based on the Complainant's statement and with consideration of the length
of the relationship, the type of relationship, and the frequency of interaction between
the persons involved in the relationship. Violence can occur in relationships regardless
of gender.
5) Domestic Violence: Felony or misdemeanor crime of violence committed by:
   i. A current or former spouse or intimate partner of the victim
   ii. A person with whom the victim shares a child in common
   iii. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner
   iv. Person similarly situated to a spouse of the victim under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred and
   v. Any other person against an adult or youth victim who is protected from that person’s act under the laws of the State of Iowa

6) Stalking, defined as:
   a. engaging in a course of conduct,
   b. towards another person, that would cause a reasonable person to
      i. fear bodily injury to themselves or another; or
      ii. Suffer substantial emotional distress.

For the purposes of this definition—
   (i) A course of conduct means two or more acts,
   (ii) Reasonable person means a reasonable person under similar circumstances, and
   (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

b. Consent, Incapacitation, Coercion, and Force

As used in the offenses above, the following definitions and understandings apply:

Consent is:
   ● knowing, and
   ● voluntary, and
   ● clear permission
   ● by word or action
   ● to engage in each specific sexual 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. If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction, but a display of clear communication (word or action) is necessary. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. A person can withdraw consent at any time during sexual activity by expressing in words or actions that they no longer want the act to continue, and, if that happens, the other person must stop immediately.
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. A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM (bondage, discipline/dominance, submission/sadism, masochism) or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so the College’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to the policy that assumes non-kink relationships as a default.

Consent is not effective if a party is incapacitated, or it results from the use of fraud, force, threats, intimidation, or coercion.

Incapacitation:

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). Incapacitation can result from the use of alcohol or other controlled substances; disoriented, helpless, asleep, or unconscious; or from mental or physical incapacity. Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

It is a defense to a sexual harassment policy violation that the Respondent neither knew nor should have known the Complainant to be incapacitated. “Should have known” is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment. It is not an excuse that the individual respondent of sexual harassment was intoxicated and, therefore, did not realize the incapacity of the other.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in
certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Sexual activity that is forced** is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone does not constitute consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

c.  **Expectations Regarding Unethical Relationships**

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty member or staff member and student or supervisor and employee). These relationships may, in reality, be less consensual than perceived by the individual whose position confers power or authority. Similarly, the relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Circumstances may change, and conduct that was once welcome may, at some point in the relationship, become unwelcome.

Even when both parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a relevant Policy violation still exists. Luther College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student) are strongly discouraged. They may also violate standards of professionalism and/or professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic and employees are required to consider seriously the exploitative possibilities within such relationships. Therefore, persons with direct supervisory or otherwise evaluative responsibilities who are involved in such relationships must bring these relationships to the timely attention of Human Resources and/or the Title IX Coordinator. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities from the employee or shifting a party from being supervised or evaluated by someone with whom they have established a consensual relationship. When an affected relationship existed prior to the adoption of this policy, the duty to notify Human Resources still pertains.

16. **Definition of Prohibited Retaliation**

Retaliation occurs when an individual harasses or intimidates another person because that other person filed a complaint, participated in the resolution process of a violation of this Policy, supported a Complainant or Respondent, and/or acted in good faith to oppose conduct that constitutes a violation of this Policy. Harassment or intimidation includes but is not limited to threats or actual violence against the person or the person’s property, adverse educational or employment consequences, ridicule, taunting, bullying, or ostracism. Retaliation is prohibited under this Policy and is expressly prohibited by Title VII, Title IX, and other state and federal laws.
Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a resolution proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. Luther College is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

17. Employee Duty to Refer

Luther College employees are expected to report actual or suspected sexual harassment to appropriate officials immediately.

Luther College Safety and Security Staff, Deans from Student Life, Human Resources Staff, President’s Cabinet, Deputy Title IX Coordinators, and Residence Life Staff (including Resident Assistants) must report and share all information known to the Title IX Office as they are considered an Official with Authority. OWAs must disclose all information about sexual harassment that they know, including the identities of the parties, so they are not a confidential resource.

All other employees of Luther College are obligated to provide a Required Referral. Required Referrals help ensure the college keeps the campus safe by allowing the Title IX Office to identify patterns of behavior by individuals in our community and/or other concerning behavior that needs to be addressed and remedied. Disclosing to the Title IX Coordinator the names and details of those involved in an incident allows the College to share all the options in greater detail tailored to the individual needs of the Complainant.

Additionally, at the request of a Complainant, a report may be given by a non-confidential employee to the Title IX Coordinator anonymously, without identification of the parties. The employee making the Required Referral may not remain anonymous. The employee must consult with the Title IX Coordinator on that assessment without revealing personally identifiable information. In situations where the Title IX Coordinator believes that a compelling threat to health or safety could exist, the Required Referral employee must reveal the names of the parties. The employee providing the Required Referral must provide an electronic copy of a Complainant Packet to the anonymous Complainant to share supportive measures, resources, and options as guided by the Title IX Coordinator. If the employee is uncomfortable or unwilling to provide that service then the employee must ensure that students or employees who experience sexual harassment are put in contact with the people best equipped to help them, such as the Title IX Coordinator, by disclosing the name of the parties. Anonymous notice will be investigated by the College to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided. However, anonymous notice typically limits the College’s ability to investigate, respond, and provide remedies, depending on what information is shared.

Generally, disclosures in climate surveys, anonymous social media posts, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide reports that must be referred to the Title IX Coordinator by employees unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the College.
Failure of not reporting to the Title IX Office, as described above in this section, to report an incident of sexual harassment of which they become aware is a violation of College Policy and can be subject to disciplinary action for insubordination.

18. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, is unresponsive to outreach from Title IX Coordinator or Deputy Title IX Coordinator or does not want a Formal Complaint to be pursued, they may make a request for confidentiality or not to proceed under a Formal Complaint to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process when it is not clearly unreasonable to do so. In making this decision, the Title IX Coordinator must consider the effect that non-participation by the Complainant may have on the availability of evidence and the College’s ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a complaint, a Complainant has the right and can expect, to have allegations taken seriously by the College, and to have the incidents investigated and properly resolved through these procedures.

19. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the College must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The College will ensure that a Complainant’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.
20. False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under College policy.

21. Amnesty for Parties and Witnesses

Luther College encourages the reporting of misconduct by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the College community that Complainants choose to report misconduct to College officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty may not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct.

Students: Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underaged student who has been drinking or using marijuana might hesitate to help an individual who has experienced sexual misconduct to College officials.)

The College maintains a policy of amnesty for students who offer help to others in need. While policy violations cannot be overlooked, the College may provide the student with referrals for assessments and/or treatment recommendations with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to students to support their well-being.

Employees: Sometimes, employees are hesitant to report harassment or discrimination they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to College officials.
The College may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

22. Federal Statistical Reporting Obligations
Reports may be required to document this report for general Clery Act statistics depending on the type of incident and general location (on or off campus or in the surrounding area). The personally identifiable information of parties would remain anonymous for these statistical purposes for the Annual Security Report and daily campus crime log.
RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON SEXUAL HARASSMENT
(KNOWN AS FORMAL PROCESS)

1. Overview

Luther College will act on any Formal Complaint of a violation of the policy on Sexual Harassment received by the Title IX Coordinator or any other Official with Authority that falls within the scope of Title IX by applying these procedures, known as “Formal Grievance Process.”

The procedures below apply only to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrators, or faculty members.

Informal Alternative Resolution can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within a Formal Grievance Process, as determined by the Title IX Coordinator.

Sodexo, Ricoh, or other contracted employees are subject to the terms of their agreements/employees’ rights to the extent those agreements do not conflict with federal or state compliance obligations.

For details relating to disability accommodations in the College’s resolution process, please contact the Title IX Coordinator. At times, the Title IX Coordinator will need to consult with the Coordinator of Disability Services or Human Resources.

2. Report or Complaint

When the College receives a report of potential discrimination or harassment, in most cases outreach will be done by the Title IX Coordinator with the Complainant to identify reporting options (discussed in another section) within and outside the College and to offer supportive measures.

Upon receipt of a formal complaint of a violation of this policy, the Title IX Coordinator will promptly conduct an initial assessment to determine the next steps the College needs to take. The College will initiate at least one of three responses:

1. Provide the Complainant with assistance and support only, based on the Complainant’s request that the College not take action, where that request is not clearly unreasonable.
2. Determine that the circumstances satisfy the jurisdictional requirements of Title IX at 34 CFR 106.45 and resolve the complaint under this Policy’s informal or formal resolution procedures.
3. Determine that the circumstances do not satisfy the jurisdictional requirements of Title IX at 34 CFR 106.45 and dismiss the complaint under Title IX, but resolve the complaint under other policies and procedures, as applicable.

The investigation and grievance process will determine whether or not the Policy has been violated. If so, the College will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual harassment, its potential recurrence, or effects.
a. Dismissal (Mandatory and Discretionary)

The College **must** dismiss a formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1) At the time of filing the formal Complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the College; and/or

2) The conduct alleged in the formal Complaint would not constitute sexual harassment as defined in the Policy above, even if proven; and/or

3) The conduct alleged did not occur in an educational program or activity of the College, nor did it occur in any building owned or controlled by a student organization that is officially recognized by the College; and/or

4) The conduct did not occur against a person in the United States.

The College **may** dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal Complaint or any allegations therein; or

2) The Respondent is no longer enrolled in or employed by the College; or

3) Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal Complaint or allegations therein.

Upon dismissing the Complaint, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party. A Complainant who decides to withdraw a Complaint may later request to reinstate or refile it.

Dismissing a complaint under Title IX may be procedural, and does not limit the College’s authority to address a complaint with an appropriate process and remedies. If the Title IX Coordinator determines that the misconduct alleged does not fall within the scope of Title IX, other policies such as the College’s Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy may apply and the matter may be referred for resolution.

3. Counterclaims

The College permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. The College is obligated to ensure that the grievance process is not abused for retaliatory purposes. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted.
Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims, in most circumstances, will be resolved through the same investigation and the same hearing, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

4. Right to an Advisor

The parties may each have an Advisor of their choice, at their expense, present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor. The party should choose an Advisor who can be consistently available to attend meetings during business hours. The College will attempt to schedule meetings at mutually convenient times, but cannot unduly delay the process to accommodate an Advisor with limited availability.

The College may permit parties to have one additional support Advisor in the waiting room for a hearing, such as an advocate, upon special request to the Title IX Coordinator 5 business days in advance of the hearing. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties should each party request it.

   a. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney (at the party’s own cost), or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the College community.

The Title IX Coordinator will also offer to assign an Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the College, the Advisor will be trained by the College and be familiar with the College’s resolution process.

If the parties choose an Advisor from outside the pool of those identified by the College, the Advisor may not have been trained by the College and may not be familiar with the College’s policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

   b. Advisors in Hearings/College-Appointed Advisor

Under U.S. Department of Education regulations applicable to Title IX, the opportunity to conduct cross-examination is provided during the hearing. Cross-examination must be conducted by the parties’ Advisors; the parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, the College will appoint an Advisor for the limited purpose of conducting any cross-examination.
A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, the College will dismiss that Advisor and appoint one. If the College must appoint an Advisor, the selection of the Advisor will be in the College's sole discretion.

c. Advisor’s Role

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews.

d. Pre-Interview Meetings

All Advisors must sign a Luther College Advisor Agreement Form prior to serving for a case as to understand the role and the College’s policies and procedures. Advisors are not able to speak for the parties during the investigative process.

e. Advisor Violations of College Policy

All Advisors are subject to the same College policies and procedures, whether they are attorneys or not. Advisors are expected to advise their party without disrupting proceedings. Advisors should not address College officials in a meeting or interview. The Advisor may not make a presentation or represent their party during any meeting or proceeding and may not speak on behalf of the party to the Investigator(s) or other Luther College Hearing Board members except during a hearing proceeding and specifically to conduct cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their party, the Advisor may consult with their party, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

If an Advisor disrupts or otherwise fails to respect the limits of the Advisor role, the meeting will be ended or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

f. Expectations of an Advisor

The College generally expects an Advisor to adjust their schedule to allow them to attend the College meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay and is still completed with typical business hours. The College may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.
g. Sharing Information with the Advisor

The College expects that the parties may wish to have the College share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor, but the Advisor will be under the same expectations of privacy as the party. Doing so may help the parties participate more meaningfully in the resolution process.

These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the College’s privacy expectations. The College may require both parties and their Advisors to enter into a written agreement prohibiting the use or dissemination of evidence for any purpose other than those directly related to the parties’ participation in the resolution process.

5. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with the College policy. The College asks for discretion in minimizing the sharing of information so as to respect the sensitivity of this matter for all parties.

a. Alternative Resolution

Situations involving sexual misconduct are unique and present myriad difficulties for the students involved. Although Luther College believes that the formal grievance process is best equipped to address sexual misconduct within our community, the college recognizes that in some cases the parties’ needs may be best met by more flexible processes. Accordingly, the college has established a structured Alternative Resolution model that focuses on remedies, support, and accountability outside of the traditional grievance process as an additional option for Complainants. The Alternative Resolution is designed to eliminate the prohibited behavior, prevent its recurrence, and remedy its effects in a manner that meets the needs of the Complainant while still maintaining the safety of the overall campus community.

Alternative Resolution is not appropriate in every case. Both parties must participate voluntarily in hopes of reaching a resolution agreement. Luther College will never pressure a Complainant or Respondent to participate in an Alternative Resolution or to agree to any particular outcome. To initiate Informal Resolution, a Complainant needs to submit a Formal Complaint with the Title IX Coordinator. If a Respondent wishes to initiate alternative resolution, they should notify the Title IX Coordinator. Complaints in which the Respondent is an employee may not be resolved with Informal Resolution.

In situations that present elevated risk to the campus community, the College may proceed with a formal conduct process even if the Complainant would prefer an alternative resolution. Those situations may include but not limited to:

- weapon was used or threatened
- escalating behavior (such as relationship violence)
- premeditated predatory behavior
• minor (or other vulnerable adults) involved
• repeated pattern of behavior that suggests likelihood of future policy violations

Additionally, the Title IX Coordinator may consider the following factors to assess whether Alternative Resolution is appropriate, or which form of Alternative Resolution may be most successful for the parties:

• The parties’ motivation to participate
• Civility of the parties
• Emotional investment/intelligence of the parties
• Rationality of the parties
• Goals of the parties
• Willingness of the parties to participate in “good faith”
• Adequate resources to invest in Alternative Resolution (time, staff, etc.)

The Title IX Coordinator must endorse the process itself and approve the agreed-upon outcome. Informal Resolution can include two different approaches:

• When the parties agree to resolve the matter through an alternative resolution mechanism including shuttle negotiation;
• When the Respondent acknowledges causing harm and desires to participate in the resolution process;

To initiate Alternative Resolution, a Complainant needs to submit a formal Complaint. If a Respondent wishes to initiate Alternative Resolution, they should contact the Title IX Coordinator to so indicate.

It is not necessary to pursue Alternative Resolution first in order to pursue a Formal Grievance Process, and any party participating in Alternative Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Participation in either format of Alternative Resolution is voluntary, so both parties have the right to terminate the alternative resolution at any time. If the Alternative Resolution fails, the Complainant may elect to revert the case back to an investigation phase of a formal grievance process. If any information is shared, discovered, or documented by the facilitator during an alternative resolution, that information will not be shared with the investigator if a formal process is initiated.

Participation in this process does not constitute a responsible finding of a policy violation and therefore is not reflected on a student’s disciplinary record. Alternative Resolution often focuses on active accountability when addressing harm caused.

Prior to initiating Alternative Resolution, the College will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such
a process, including information regarding any records that will be maintained or shared by the College.

The College will obtain voluntary, written confirmation of the Alternative Resolution Agreement Form that all parties wish to resolve the matter through Alternative Resolution before proceeding and will not pressure the parties to participate.

If the Alternative Resolution is successful, the Title IX Coordinator will review the terms of the agreement and will draft a formal document confirming the agreement. Both parties will sign the agreement and will receive a copy of it. A resolution agreement is not final until both parties and the Title IX Coordinator have signed the formal agreement document. Results of Complaints resolved by Informal Resolution or Alternative Resolution are not appealable, and the parties will no longer have recourse to the formal student conduct process for the incident.

Alternative Resolution agreements are binding on both parties. If either party fails to adhere to and meet the expectations of the alternative resolution agreement, they may be charged with Failure to Comply with directions of a Luther College official(s) as outlined in the Code of Conduct.

If the Respondent is found responsible for any violations of this policy in the future, information regarding the prior incident processed through the alternative resolution may be used in the sanctioning phase for the subsequent report. The Title IX Office will be responsible for maintaining records of all reports and conduct referred for the Alternative Resolution.

1. **Restorative Justice Resolution**

Restorative justice is a process in which the Respondent acknowledges harm caused by their actions; to the best of their ability, repairs the harm they caused to harmed parties and the community; and works to rebuild trust by showing an understanding of the harm, addressing personal issues, and building positive social connections. Restorative justice involves direct interactions between the parties involved (and others impacted) and is only appropriate in situations in which the Respondent is willing to take active accountability for their actions.

2. **Shuttle Negotiated Resolution**

Shuttle negotiation is a structured negotiation process in which a college facilitator, usually the Title IX Coordinator or case manager appointed by the Title IX Coordinator, helps the parties reach an agreement that meets their needs. Shuttle negotiation does not involve any direct interaction between the parties and is most effective in situations in which the Complainant has specific needs.

To determine whether a shuttle negotiation would be appropriate, the facilitator will meet with each party individually. Through these discussions, the facilitator will develop a list of topics over which negotiations will take place and attempt to identify any irreconcilable conflicts between the parties. Topics for discussion will vary based on the individual situation, but possibilities include academic course enrollments, residence hall selection, student work-study assignments, no-contact directives, an apology letter, and whether a student conduct policy violation will be assessed.
If the parties and the facilitator separately agree that a shuttle negotiation is likely to be productive, the facilitator will initiate the negotiation. The Complainant and Respondent, each with an Advisor of their choice if desired, will be assigned to separate rooms. The facilitator will pass back and forth between the parties, discussing their needs and concerns. If there are issues that prevent the parties from participating in negotiations this way, the facilitator may instead choose to conduct the negotiation by telephone, video conference, or other means.

If the parties are able to come to terms on an agreement, the facilitator will document those terms and confirm them with the parties. Once the parties sign the document, the resolution is final.

5. Title IX Personnel

The Formal Grievance Process relies on Title IX Personnel to carry out the process.

a. Title IX Personnel

Title IX Personnel are trained annually, and can serve in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in informal resolution or Alternative Resolution if appropriately trained in appropriate resolution modalities
- To perform or assist with an initial assessment
- To investigate complaints
- To serve as a hearing chair (process administrator and facilitator, non-voting)
- To serve as the Luther College Hearing Board regarding the complaint
- To serve as a Campus Appeal Board members

b. Title IX Team

While the Title IX Team is typically trained in a variety of skill sets and can rotate among the different roles listed above in different cases, the College can also designate permanent roles for individuals in the team, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the team that make them best suited to particular roles.

c. Title IX Team, Chairs, Employee Grievance Investigators, Hearing Board Members and Appeal Board Members

These individuals receive annual training based on their respective roles on the topics of 1) impartiality, 2) avoiding prejudgment of facts at issue, 3) conflicts of interest and bias, 4) the College’s resolution processes, 5) issues of relevance and evidence, 6) the scope of the College’s educational programs and activities, 7) types of harassment and discrimination; and (8) how to conduct an investigation and hearing process that protects the rights, well-being, and safety of the
parties, provides an equitable process for all parties involved, and promotes accountability. The materials used to train these individuals are publicly posted here: https://www.luther.edu/titleix/training-materials/


Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints two investigators to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them if desired. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:
- The identity of the involved parties (if known)
- The misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The policies implicated
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- Information on the right to an Advisor of their choosing
- A statement informing the parties that the College’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process
- Detail on how the party may request disability accommodations during the interview process and formal grievance process
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have
- The parties’ rights to review and comment on investigative evidence.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges. Parties will also be provided advance notice in writing of the date, time, location, participants, and purpose of any interview, hearing, or meeting in the investigation and resolution process.

7. Resolution Timeline

The College will make a good faith effort to complete the resolution process within sixty-to-ninety (60-90) business days, including appeal. This timeline can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties and an estimate of how much additional time will be needed to complete the process.
The investigation phase of the process is completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability, and volume of witnesses, law enforcement involvement, etc.

The College may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities, special circumstances or health conditions.

The College will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The College will promptly resume its investigation and resolution process as soon as feasible. During such a delay, the College will implement supportive measures as deemed appropriate.

The College action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

8. Criminal Process

The College Formal Grievance 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 and employees 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.

The College will produce records in response to a lawfully issued subpoena or court order without the student or employee’s consent. When student records are requested the College will notify students of its intent to comply with as required by the FERPA regulations at 34 CFR § 99.31(a)(9). The purpose of this advance notification requirement is to afford the student an opportunity to contest the subpoena in court.

9. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s), and Hearing Board members may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will review the assigned Investigators to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Title IX personnel will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should
be raised with the Director of Human Resources.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation and evidence which supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual’s status or participation as a Complainant, Respondent, or witness.

The College operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

10. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses, and obtaining available relevant evidence, both inculpatory and exculpatory.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps (not necessarily in this order):

- Interview the Complainant and Respondents separately. Each party will be asked to participate in an initial interview and may be asked to participate in a follow-up interview(s) as needed.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Allow each party the opportunity to suggest relevant witnesses.
- Allow each party the opportunity to request an expert witness at the party’s personal expense.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Provide regular status updates to the Title IX Coordinator throughout the investigation.

Neither party will be restricted in their ability to discuss the allegations or to gather and present relevant evidence; provided, however, that such communications shall not constitute harassment of or retaliation against any party.

Prior to the completion of the investigation report, the Complainant and Respondent and, unless directed otherwise by the respective parties, their Advisor, will be provided the opportunity to inspect all evidence directly related to the allegations of the formal complaint, including both inculpatory and exculpatory evidence, and evidence that the College does not intend to rely on in reaching a determination. The College may require both parties and their Advisors to enter into a
written agreement prohibiting the use or dissemination of evidence for any purpose other than those directly related to the parties' participation in the resolution process.

Complainant and Respondent will be given at least ten (10) days to inspect and review the evidence collected during the College’s investigation and to submit a written response the Investigator(s) will consider in preparing a final investigation report. The parties can waive all or part of this inspection period.

The final investigation report will summarize the information and include any documents gathered. The investigative report will not include determination of responsibility for the complaint itself. Complainant and Respondent will be given at least an additional ten (10) days after receiving a copy of the College’s final investigation report to respond to the investigation report, in writing. In their written response to the investigation report, Complainant and Respondent may provide written comments regarding the relevance of the evidence included in or excluded from the investigation report, provide factual or other corrections to the report, and otherwise provide context for the report.

The final investigation report will be distributed, concurrently, to both of the parties and the Title IX Coordinator at least ten (10) days prior to a hearing to determine responsibility.

11. Role and Participation of Witnesses in the Investigation

Luther College encourages all individuals with relevant information to participate in the resolution process, and will support their participation. However, the College does not compel students to participate. Witnesses who are employees of the College are expected to cooperate with and participate in the College’s investigation and resolution process.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Zoom, Google Hangout, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The College will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

12. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

13. Evidentiary Considerations in the Investigation and Hearing

The investigation does not consider questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior unless such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.
The Investigator(s) will only access, consider, disclose, or otherwise use a party’s treatment records made or maintained by a health care provider, or other records protected under a legally recognized privilege if the party provides the investigator(s) with voluntary, written consent to do so.

14. Referral for Hearing

Provided that the Complaint is not resolved through Alternative Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The Title IX Coordinator will select an appropriate Chair (non-voting member) for the Luther College Hearing Board, considering factors such as availability, conflict of interest, and whether the Respondent is an employee or a student. On a case-by-case basis, the College reserves the right to contract with outside legal representation to chair individual cases.

15. Hearing Board Composition

For cases in which the Respondent is a student: A quorum for the hearing board consists of five voting members with at least one student, one faculty member, and the Chair. The Chair and Title IX Coordinator will appoint the board members, considering factors such as availability, conflict of interest, and whether the Respondent is faculty or staff.

For cases in which the Respondent is an employee: A quorum for the hearing board consists of three voting members, with at least one staff member and at least one faculty member. The Title IX Coordinator and Chair will appoint the board members, considering factors such as availability, conflict of interest, and whether the Respondent is a faculty or staff member.

16. Disciplinary History

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

17. Evidentiary Standard

After post-hearing deliberation, the hearing board renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

18. Notice of Hearing and Charges

No less than ten (10) days prior to the hearing, the Chair or the Title IX Coordinator will send notice of the hearing and charges to the parties.

The notice will contain:
The time, date, and location of the hearing.

Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Hearing Board and parties to see and hear a party or witness answering questions. Such a request must be raised with the Chair or Title IX Coordinator at least five (5) days prior to the hearing.

A list of all those who will attend the hearing, along with an invitation to object to any Hearing Board Members on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least five (5) days prior to the hearing.

Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.

A statement that if any party or witness called does not appear at the scheduled hearing, the hearing may be held in their absence, and the party’s or witness’s testimony and any statements given prior to the hearing likely will not be considered by the Hearing Board. For compelling reasons, the Chair may reschedule the hearing.

Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator at least five (5) days prior to the hearing if they do not have an Advisor, and the College will appoint one. Each party must have an Advisor present.

An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least five (5) days prior to the hearing.

Parties may not bring mobile phones or electronic/recording devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (for example, during finals, break periods, January Term, or over the summer) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline and goal for resolution.

19. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) days prior to the hearing or in ideal situations during the investigation so that appropriate arrangements can be made.

20. Pre-Hearing Preparation

The Chair, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent
documentary evidence, and the final investigation report to the parties at least five (5) days prior to the hearing.

At least five (5) calendar days before the hearing, the Chair will notify the parties in advance which witnesses (including Complainant or Respondent) the Hearing Board would like to be present at the hearing. The Chair or designee will notify these witnesses of the hearing date and time and that their presence has been requested. Any witness called by the Chair will also be expected to answer questions from the parties.

- When notifying the parties of these witnesses, the Chair will also request the parties identify any additional witnesses they wish to have present at the hearing for cross-examination.
- The Chair or designee will notify relevant witnesses of the hearing date and time and that their presence has been requested by the party for cross-examination.

Any witness (including expert witnesses) scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness’s participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may either delay the hearing or notify the parties that they may file an appeal to have the evidence considered.

The parties will be given a list of the Hearing Board members at least ten (10) business days in advance of the hearing unless recusals occur. All objections to any hearing board members must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than five (5) days prior to the hearing. Hearing Board members will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

Any hearing board member who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties and witnesses in advance of the hearing. If a Hearing Board member is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator and Chair as soon as possible.

During the ten (10) day period prior to the hearing, the parties have the opportunity for continued review on the final investigation report and available evidence.

21. Pre-Hearing Meetings

The Chair, in consultation with the Title IX Coordinator, may convene a pre-hearing meeting(s) with the parties to invite them to submit the questions or topics they wish to ask or discuss at the hearing, so that the Chair can consider and discuss their relevance ahead of time. However, this advance review discussion does not preclude a party from introducing evidence or an Advisor from asking any cross-examination question at hearing.
The Chair, with the agreement of both parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Chair and/or Title IX Coordinator (or in consultation with legal counsel) will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing.

The pre-hearing meeting(s) will not be recorded.

22. Hearing Procedures

At the hearing, the Hearing Board has the authority to hear and make determinations on all allegations of sexual harassment and/or retaliation. Participants at the hearing may include the Chair, hearing board members, the Investigator(s) who conducted the investigation, the parties or organizational representatives when an organization is the Respondent, Advisors to the parties, any called witnesses, the Title IX Coordinator, legal counsel retained by the College, and anyone providing authorized accommodations or assistive services.

The Chair or Title IX Coordinator will answer all questions of procedure. Anyone appearing at the hearing to provide information (such as a witness, expert witness, or investigator) will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the hearing board and the parties’ advisors and will then be excused.

23. Joint Hearings

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

24. The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants.

The Chair conducts the hearing according to a hearing script. The Chair facilitates the recording, witness logistics, party logistics, curation of documents, separation of the parties, and other
administrative elements of the hearing process with assistance provided by the Title IX Coordinator. The hearing typically begins with opening statements from the parties sharing vital content, series of questioning, questioning of witnesses, cross-examination, final questioning, and closing statements.

25. Testimony and Questioning

At times, the Investigator(s) may be present at hearings and questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Hearing Board and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request or agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider it, and the Chair will determine whether the question will be disallowed as irrelevant.

The Chair may explore arguments regarding relevance with the Advisors, on or off the record, if the Chair so chooses. The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair will explain any decision to exclude a question as not relevant.

The Chair has final say on all questions and determinations of relevance. The Chair may consult with the Title IX Coordinator or legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

26. Refusal to Submit to Cross-Examination and Inferences

If a party or witness called chooses not to submit to cross-examination at the hearing, either because they do not attend the hearing, or they attend but refuse to participate in questioning, then the Hearing Board may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Hearing Board must disregard that statement. However, the Board may consider other evidence supporting or not supporting that individual’s statements. Evidence provided that is something other than a statement by the party or witness may be considered.

The Hearing Board may not draw any inference solely from a party’s or witness’s absence from the hearing or refusal to answer cross-examination or other questions.

If a party’s Advisor of choice refuses to comply with the College’s established rules of decorum for the hearing, the College may require the party to use a different Advisor. If a College-provided Advisor refuses to comply with the rules of decorum, the College may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

27. Recording Hearings
Hearings (but not deliberations) are recorded by the College for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Chair, the parties, their Advisors, and appropriate administrators of the College will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

28. Deliberation, Decision-making, and Standard of Proof

The Hearing Board will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The Title IX Coordinator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally and take notes, not to address the substance of the allegations.

The Hearing Board will review any pertinent conduct history provided by the Assistant Dean and Director of Student Rights and Responsibilities or the Director of Human Resources. Then the Board will determine the appropriate sanction(s).

29. Notice of Outcome

The Chair, in collaboration with the Title IX Coordinator, will prepare a written Notice of Outcome detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions.

At the discretion of the Title IX Coordinator, the Notice of Outcome may be reviewed by legal counsel. The Chair will then share the Notice of Outcome simultaneously with the parties and their Advisors.

The Notice of Outcome will be in writing and specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the College is permitted to share such information under state or federal law; any sanctions issued which the College is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to the College’s educational or employment program or activity, a description of the procedural steps taken to the extent the College is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

30. Sanctions
Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent’s disciplinary history
- The Respondent’s role and level of responsibility at the College
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Institutional precedent for how similar infractions have been addressed
- Any other information deemed relevant by the Hearing Board

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

**a. Student Sanctions**

The following are the range of sanctions that may be imposed upon students or organizations singly or in combination:

- **Unilateral No Contact Directive:** A mandate to have no avoidable contact with one or more individuals. May include restrictions from being present in another student’s classes, residence hall, or student organizations.
- **Educational Sanctions:** A directive to complete specified educational programs or projects to better comprehend the misconduct and its effects.
- **Mental Health or Substance Abuse Evaluation:** A mandate to meet with and engage in either College-sponsored or external counseling to better comprehend the behavior and its effects or contributing factors thereto, such as substance abuse, anger management, or other mental health issues.
- **Probation:** A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact directives, and/or other measures deemed appropriate.
- **Residence Hall Suspension:** Termination of a student’s right to live or be present in College-owned housing for a definite period of time.
- **Suspension:** Termination of student status for a definite period of time not to exceed three
years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at Luther College.

- **Expulsion:** Permanent termination of student status and revocation of rights to be on campus for any reason or to attend College-sponsored events.
- **Organizational Sanctions:** Deactivation, loss of recognition, loss of some or all privileges (including College registration) for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

In all cases, the Hearing Board and Campus Appeals Board reserve the right to broaden or lessen any range of recommended sanctions to address mitigating circumstances or repeated or egregious behavior.

**b. Employee Sanctions**

The following are the range of sanctions that may be imposed upon employees singly or in combination:

- **Unilateral No-Contact Directive**
- **Educational sanctions**
- **Required counseling**
- **Imposition of performance improvement plan**
- **Probation**
- **Loss of annual pay increase**
- **Loss of oversight or supervisory responsibility**
- **Demotion or job reassignment**
- **Suspension, with or without pay**
- **Revocation or denial of tenure for a specified period of time**
- **Termination of employment**
- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

In all cases, the Hearing Board and Campus Appeals Board reserve the right to broaden or lessen any range of recommended sanctions to address mitigating circumstances or repeated or egregious behavior.

**31. Withdrawal or Resignation While Charges Pending**

Should a student decide to not participate in the resolution process, the process may proceed absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the College, the resolution process ends, as the College no longer has disciplinary jurisdiction over the withdrawn student. The student who withdraws or leaves while the process is pending may not return to Luther College. A hold will be placed on their ability to be readmitted. They may also be barred from College property and/or events.
However, the College will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

If the student Respondent takes a temporary leave for a specified period of time (e.g., one semester or term), the resolution process will continue remotely and that student is not permitted to return to the College unless and until all resolution terms have been satisfied.

During the resolution process, the College may put a hold on a responding student’s record or dean’s disciplinary certification that a disciplinary matter is pending.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the College no longer has disciplinary jurisdiction over the resigned employee. The employee who resigns with unresolved allegations pending is not eligible for rehire by the College, and the records retained by Human Resources will reflect that status. All College responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

However, the College will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

32. Appeals

1. A decision reached by the Hearing Board may be appealed by either party to the Campus Appeals Board within seven days of the decision. Such appeals shall be in writing, stating the basis for the appeal, and shall be delivered to Corey Landstrom, Vice President and Dean for Student Life, at Dahl Centennial Union 266 or via email at clandstrom@luther.edu.

2. Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the hearing and supporting documents for one or more of the following purposes:
   a. Deviations from designated procedures within the investigation or adjudication processes, which could have affected the outcome
   b. A conflict of interest or the bias of the Title IX Coordinator, investigator or member of the Hearing Board sufficient to have affected the outcome
   c. To determine whether the sanctions imposed were appropriate for the violation of the Policy which the student or employee was found to have committed
   d. To consider new information or other relevant facts not brought out in the original hearing, sufficient to alter a decision, because such information and/or facts were not known or available to the person appealing at the time of the original hearing
If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeals Board Chair and the parties will be notified in writing of the denial and the rationale.

3. The Campus Appeals Board comprises three members including one faculty member, typically the Chair of the Faculty Interest Committee; one student, typically the President of the Luther College Student Senate; and the Vice President and Dean for Student Life. For cases in which the Respondent is an employee, the Title IX Coordinator will appoint a replacement for the student member. If a member of the Campus Appeals Board has a conflict of interest, the Title IX Coordinator will appoint a replacement. When appointing replacement members to the Campus Appeals Board, the Title IX Coordinator will consider the role of the Respondent, availability, and conflicts of interest. During times when classes are not in session, an appeal may be reviewed by the Vice President and Dean for Student Life, who shall make an individual determination on the appeal.

4. The non-appealing party (if any) must be notified in writing of the appeal, and given an opportunity to provide a written statement challenging or supporting the appeal.

The Appeals Board Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses to be shared with the Appeals Board, and the Appeals Board will render a decision in no more than ten (10) days, barring exigent circumstances. All decisions are by majority vote and apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration and any sanctions. If an appeal is upheld by the Campus Appeals Board, the matter shall be returned to the original Hearing Board for re-opening of the case to allow reconsideration of the original determination. If an appeal is upheld with respect to sanctions, the Campus Appeals Board may adjust sanctions or choose to refer the case back to the Hearing Board for consideration of sanctions. If an appeal is not upheld, the matter shall be considered final and binding upon all involved.

a. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing will be in effect during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

b. Appeal Considerations

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation, recording of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for the Campus Appeal Board to substitute their judgment for that of the original Hearing Board merely because they disagree with the finding and/or
sanction(s).

- The Campus Appeals Board may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Hearing Board for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). When appeals result in no change to the finding or sanction, that decision is final.
- In rare cases where a procedural or substantive error cannot be cured by the original Hearing Board (as in cases of bias), the appeal may order a new hearing with a new Hearing Board.
- The results of a new hearing can be appealed, once, on any of the available appeal grounds.
- In cases in which the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

All faculty members subject to termination by the Luther College Hearing Board and upheld by the Campus Appeals Board reserve the right to procedures outlined in section 410 of the Faculty Handbook.

### 33. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual harassment and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling, college ministries, and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent priority on classroom registration
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

For long-term support or measures parties may be referred to other campus resources such as Case Management or Disability Services.
When no policy violation is found, the Title IX Coordinator will address any remedies owed by the College to the Respondent to ensure there is no effective denial of educational access.

34. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the Hearing Board and Campus Appeals Board.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College.

A Respondent will only be eligible for readmission from suspension when compliance is achieved to the satisfaction of the Title IX Coordinator.

35. Sexual Harassment Outside the Policy’s Scope and Definitions

If a formal complaint is filed which alleges sexual harassment which falls outside the scope and definitions of this Policy and is dismissed, the Title IX Coordinator will refer the complaint as appropriate for adjudication under another policy or process, such as the College’s Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy and Procedures, as long doing so would not interfere with any right or privilege provided to a party under Title IX.

To the extent the complaint alleges dating violence, domestic violence, or sexual assault which fall outside the scope of the Policy (e.g., the alleged conduct occurred outside the United States or without substantial control over the respondent and the context in which the conduct occurred), the College shall nonetheless provide the following procedural rights to the parties in the applicable adjudication process:

1. The parties will each have the opportunity to participate in the investigatory and disciplinary process which is overseen by properly trained individuals.
2. The parties will each have the opportunity to be advised by a personal Advisor of their choice, at their expense, at any stage of the process and to be accompanied by that advisor at any meeting or hearing. An advisor may only consult and advise his or her advisee, but not speak for the advisee at any meeting or hearing, except as expressly provided for in applicable procedures.
3. Decisions will be based on the preponderance of evidence standard. In other words, the investigator or adjudicator will determine if it more likely than not that the respondent violated the applicable policy.
4. The parties will be notified simultaneously in writing of the outcome of any disciplinary proceeding, as well as any changes to those results or disciplinary actions prior to the time that such results become final.
5. If there is a right to appeal, the right is granted co-equally to the parties and the right will be explained in the applicable procedures. The parties will be notified simultaneously in writing of the final outcome of an appeal, if applicable.
College sanctions for such misconduct could include the range of sanctions detailed above.

### 36. Recordkeeping

Luther College will maintain for a period of at least seven (7) years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
2. Any disciplinary sanctions imposed on the Respondent
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the College’s education program or activity
4. Any appeal and the result therefrom
5. Any Informal Resolution and the result thereof
6. All materials used to train Title IX Coordinators, Investigators, Hearing Board members, Campus Appeals Board members, and any person who facilitates an Informal Resolution process. The College will make these training materials publicly available on the College’s Title IX website
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
   a. The basis for all conclusions that the response was not deliberately indifferent
   b. Any measures designed to restore or preserve equal access to the College’s education program or activity
   c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

### 36. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) and will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures in order to preserve the fairness owed the parties. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.
This policy is not a contract and does not create legally enforceable protections based on contract, quasi-contract, or third-party beneficiary status.

This interim policy and procedures are effective August 14, 2020.

THE FOLLOWING STATEMENT MUST APPEAR IN ANY VERSION OF THIS MODEL USED BY A LICENSEE:

ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL
USE AND ADAPTATION OF THIS MODEL WITH CITATION TO ATIXA IS PERMITTED THROUGH A LIMITED LICENSE TO LUTHER COLLEGE
ALL OTHER RIGHTS RESERVED.
©2020. ATIXA
 Incident of Sexual Harassment

Notice or Formal Complaint to Title IX Coordinator

Supportive Measures afforded by the College

Initial Assessment of sexual harassment criteria and jurisdiction

Dismissal provisions apply

Complainant’s Preferred Course of Action

Complainant requester Alternate Resolution is Appropriate (qualifying respondent)

Complainant Request for No Action/Confidentially May Be Respected

Notice to Parties of Allegation(s) and Investigation

Investigation

Formal Hearing

Appeal

Notice of Outcome, determination and remedies

Supportive Measures offered by the College

Referral to alternate resolution or referral to other handbook process

Notice of Outcome

Appealed

Denied

Consider

Granted
Sexual Misconduct Reporting and Options

Are you in danger?

- Call 911 or Campus Safety and Security at (563) 387-2111

Do you need medical attention?

- Winneshiek Medical Center Emergency Room
  - **Phone**: (563) 382-2911
  - **Location**: 901 Montgomery Street, Decorah, Iowa 52101
  - **Hours**: open 24 hours a day, 7 days a week
  - In cases involving sexual assault, the preservation of evidence is critical and must be done properly and promptly. Students can obtain a forensic medical examination by a trained sexual assault nurse examiner at Winneshiek Medical Center. Completing a forensic examination is free, does not require that a police report be filed, and will help preserve evidence in case you decide at a later date to file a police report.

- Student Health Services
  - **Phone**: (563) 387-1045
  - **Location**: Larson Hall
  - **Hours**: M-F 8:00-12:00 and 1:00-4:30 (closed during academic breaks)

Do you want to speak to someone confidentially?

The on- and off-campus confidential resources below can provide support without making an official report to Luther College.

- Luther College Counseling Service
  - **Phone**: (563) 387-1375
  - **Location**: Larsen Hall
  - **Hours**: M-F 8:00-12:00 and 1:00-5:00 (closed during academic breaks)

- Luther College Ministries
  - **Phone**: (563) 387-1040
  - **Location**: Center for Faith and Life
  - **Hours**: M-F 8:00-5:00 (call ahead during academic breaks)

- The Riverview Center
  - **Phone**: (563) 380-3332
  - **Hours**: 24 hours a day, 365 days a year
  - The Riverview Center works with survivors of sexual assault in northeast Iowa. Their services include client advocacy, medical advocacy, legal advocacy, therapy/counseling, and violence prevention education.

- Helping Services for Northeast Iowa
Helping Services’ Domestic Abuse Resource Center serves individuals in abusive relationships providing safe houses, victim advocacy, emergency supplies and assistance, and transitional housing.

Do you want to report the incident to law enforcement?

- Decorah Police Department
  - Phone: (563) 382-3667
  - Location: 400 W. Claiborne Drive, Decorah, Iowa 52101
  - Hours: 24 hours a day, 365 days a year
  - Students interested in filing a police report or pressing charges should do so by contact the Decorah Police Department. Campus Safety and Security is available to assist students as they work with law enforcement. Students are never required to notify police of an incident.

- Winneshiek County Clerk of Court
  - Phone: 563-382-0603
  - Location: 201 W. Main Street, Decorah, Iowa 52101
  - Students interested in seeking a court-issued Order of Protection should contact the Winneshiek County Clerk of Court. Luther College will abide by all legally issued orders of protection, including denying the restricted person access to campus.

Do you want to report the incident to Luther College?

Although students may report incidents to many individuals at Luther College, the Student Life office is best equipped to provide accommodations, connect with outside resources, and initiate the student conduct process.

- Student Life Office
  - Phone: (563) 387-1020 (business hours) or (563) 387-2111 (outside business hours)
  - Location: Dahl Centennial Union 266
  - Hours: M-F 8:00-5:00
  - Students should ask to speak with Janet Hunter or an available dean.

- Matthew Bills, Title IX Coordinator
  - Phone: (563) 387-1189
  - Location: Main 28
  - Hours: M-F 8:00-5:00 (additional availability by appointment)

- Campus Safety and Security
  - Phone: (563) 387-2111
  - Location: Dahl Centennial Union 129
  - Hours: 24 hours, 365 days a year
Interim Remedies and Accommodations

Luther College provides the following remedies and accommodations to students who are party to a sexual misconduct proceeding. Other remedies tailored to individual situations are available.

A member of the Student Life office, in consultation with the Title IX Coordinator, will determine and implement appropriate interim remedies, accommodations, and other actions.

Health and Safety Remedies and Accommodations

- Access to medical and counseling services
- Luther College No Contact Directive or assistance in obtaining a civil protection order
- Facilitating a meeting with law enforcement to discuss safety planning and law enforcement options
- An escort to ensure safe travel between classes and other College activities
- Voluntary leave of absence

Academic Remedies and Accommodations

- Rescheduling of exams and assignments, and granting excused absences
- Alternate course completion options
- A change in class schedule, including the ability to transfer sections or drop a course without penalty
- Academic support services, including tutoring

Residential and Employment Remedies and Accommodations

- Room change for the involved students
- Modification of on campus job assignment or work schedule
- Assistance in resolving concerns about immigration status, visas, or financial aid

Interim Actions and Education

- Interim suspension, ban from campus, or paid/unpaid work leave
- Interim restriction on residence hall access
- Limitation on individual’s or organization’s access to certain College facilities or activities
- Training on sexual misconduct and healthy relationships
- Substance abuse assessment or education
The Formal Student Sexual Misconduct Process

This high-level summary of the on-campus student sexual misconduct process is provided for your convenience and does not provide complete details. **This is not the official policy.** For more detailed information, please view the Student Sexual Misconduct Policy and Procedures online or contact the Student Life office at (563) 387-1020 or the Title IX Coordinator at (563) 387-1189.

Report, Preliminary Inquiry, and Accommodations

Luther College receives a report when a responsible employee learns of an incident of sexual misconduct on our campus or involving Luther students. In response to every report, Luther conducts a preliminary inquiry to identify the parties involved and ascertain the misconduct being alleged. This inquiry typically takes the form of a conversation with the victim, and is usually completed without informing the alleged assailant or other individuals of the report.

Upon receipt of the report, Luther College offers a wide range of support services, including no contact directives, academic assistance, housing accommodations, and confidential counseling.

Finally, the Title IX Coordinator must determine the appropriate next steps. The College is generally able to allow the victim to decide if and when to initiate the student conduct process. If the victim does not wish to go through the formal student process, they may select an adaptable resolution instead. However, where there is a clear threat to campus safety Luther may be required to proceed with the formal student conduct process with or without the participation of the victim.

Formal Complaint and Investigation

A report becomes a complaint when the victim decides to initiate the student misconduct process. An investigation does not seek to determine what happened or assess credibility, but simply focuses on gathering evidence. A typical investigation includes an interview with and/or written statement from the complainant, an interview with and/or written statement from the respondent, interviews with witnesses, evidence supplied by the parties (photos, messages, etc.), other evidence (security camera footage, key card access, location photos, etc.), and external reports (medical, police, etc.).

The investigation stage typically takes two to four weeks to complete.

Review

Both parties are notified upon conclusion of the investigation and asked to meet with the chair of the Luther College Hearing Board to discuss hearing rules and procedures. The Hearing Board chair drafts an official charge letter identifying the issues for the hearing. In preparation for the hearing, parties will typically each meet several times with the chairperson, and during this phase each party:

- May review all investigation materials and object to any irrelevant or prejudicial statements
- May submit a clarifying statement in response to those materials
- May suggest witnesses to testify at the hearing
- May review a list of potential Hearing Board members and object to any who may be biased
- Receives notice of the hearing date, time, and location

The review phase typically takes two to three weeks to complete.
Hearing and Decision

The hearing is conducted by the chair, supported by a Hearing Board composed of staff, faculty, and students. All hearings are recorded. The hearing is set up so that the parties cannot see each other. Direct verbal questioning by the parties is not allowed; the board members ask all questions, and each party may write down questions to ask of the other party. A typical hearing might follow this structure:

1. Introductions and hearing procedures
2. Opening statements by the complainant and respondent
3. Questions for the complainant and respondent
4. Break
5. Witness statements and questions
6. Questions for the complainant and respondent
7. Break
8. Questions for the complainant and respondent
9. Closing statements by the complainant and respondent

At the conclusion of the hearing both parties are released and the Board remains to conduct deliberations. First, the Board determines by the preponderance of the evidence standard whether the respondent is responsible for each charge enumerated in the charge letter. Once the findings are determined, the Board proceeds to determine an appropriate sanction for the respondent. Both parties receive notice of the hearing outcome in simultaneous meetings, typically two or three business days after the hearing.

Appeal

Both parties are entitled to file appeals if they are dissatisfied with either the findings or the sanctions. However, valid grounds for appeal are limited to:

- Whether the hearing was conducted fairly
- Whether the decision was based on substantial information
- Whether the sanctions imposed were appropriate
- Consider new information not known to the appellant at the time of the hearing

Written appeals and responses, along with hearing materials and recordings, are reviewed by the Luther College Appeals Board, which consists of the vice president and dean for student life Corey Landstrom, a representative of the Faculty Interests Committee, and the president of the Student Senate. The Appeals Board does not meet with the parties. The parties will receive simultaneous notice of the outcome of the appeal.

Timeline

The student sexual misconduct process, from complaint through delivery of the Hearing Board’s decision, typically takes 5-8 weeks to complete. However, there may be delays due to investigation difficulties or breaks in the academic calendar. Both parties will be notified in writing of any changes to the expected timeline.

Concerns

Contact the Title IX Coordinator with any questions or concerns about the student sexual misconduct process.
Confidentiality, Amnesty, and Retaliation

Privacy & Confidentiality
Luther 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. Therefore, the College 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 by:

- Limiting information about a case to those College officials who need to know
- Maintaining as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures
- Completing publicly available recordkeeping, including Clery Act reporting and disclosures, without inclusion of personally identifying information about the victim

Note: Luther College complies with subpoenas from local law enforcement, so any information gathered by the College may be used in a criminal proceeding.

Amnesty
To remove barriers to reporting, the College will generally not pursue potential policy violations of the parties that may have occurred in the context of an alleged violation of this policy (for example, Policy on Alcohol and Other Drugs).

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. 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.

- Retaliation is any adverse action taken against a person for making a good faith report of sexual misconduct or for participating in a sexual misconduct proceeding, including threats, intimidation, reprisals, or deliberately making false statements to intimidate, threaten, or cause harm
- Retaliation does not include good faith actions lawfully pursued in response to a report of sexual misconduct
- Retaliation can be committed by any individual or group of individuals, not just by the complainant or respondent
- Retaliation may be present even where there is a finding of “no responsibility” on the allegations of sexual misconduct

Acts of retaliation should be reported promptly to Student Life or the Title IX Coordinator. The Title IX Coordinator will determine how to address claims of retaliation.
A student who reports a violation of the Student Sexual Misconduct 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 have an advisor present during the investigation process, including interviews and meetings with college officials.
- 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 have ancillary, minor violations of college policy associated with the incident addressed through the college’s disciplinary process.
- To be free from retaliation.

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, domestic violence, and sexual exploitation are inconsistent with our educational mission.
Title IX Team

**Matthew Bills, Title IX Coordinator**

- Main 28, (563) 387-1189, bills@luther.edu

Matt serves as Luther College’s Title IX Coordinator, with primary responsibility of overseeing all aspects of the College’s Title IX process.

If you have reported an issue and do not feel that your case has been handled in a caring, effective, and equitable manner, please contact Matt.

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**Janet Hunter, Director of Case Management and Associate Dean**

- Dahl Centennial Union 266E, (563) 387-2229, hunterja@luther.edu

Janet is the primary contact for most students who report sexual misconduct. She serves as one of the College's investigators, and also works with students to coordinate appropriate accommodations.

If you would like to report an incident or need support, please contact Janet.

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**Jake Dyer, Assistant Dean for Student Life**

- Dahl Centennial Union 266B, (563) 387-1839, dyerja01@luther.edu

Jake investigates complaints of sexual misconduct. Jake also receives reports and works with students to coordinate appropriate accommodations.

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**Kris Franzen, Director of Residence Life**

- Dahl Centennial Union 124B, (563) 387-1330, frankr03@luther.edu

Kris investigates complaints of sexual misconduct. As Director of Residence Life, Kris also works with students to ensure that they have safe housing.

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**Bob Harri, Director of Campus Safety and Security**

- Dahl Centennial Union 129, (563) 387-2111, harrro01@luther.edu

Bob investigates complaints of sexual misconduct. As Director of Campus Safety and Security, Bob also oversees security measures that keep our students safe.

If you do not feel safe on the Luther College campus, please call Bob.

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**Kasey Nikkel, Director of Student Rights and Responsibilities**

- Dahl Centennial Union 266C, (563) 387-1008, kasey.nikkel@luther.edu

Kasey serves as the chair of the Luther College Hearing Board, and in that role she works with students to ensure equitable resolution of sexual misconduct complaints.

If you have questions about the student conduct process, please contact Kasey.
A student accused of violating the Student Sexual Misconduct Policy is entitled:

- To be treated with respect by college officials.
- To take advantage of campus support resources.
- To have an advisor present during the investigation process, including interviews and meetings with college officials.
- 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.

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, domestic violence, and sexual exploitation are inconsistent with our educational mission.
Confidentiality, Amnesty, and Retaliation

Privacy & Confidentiality

Luther 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. Therefore, the College 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 by:

- Limiting information about a case to those College officials who need to know
- Maintaining as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures
- Completing publicly available recordkeeping, including Clery Act reporting and disclosures, without inclusion of personally identifying information about the victim

Note: Luther College complies with subpoenas from local law enforcement, so any information gathered by the College may be used in a criminal proceeding.

Amnesty

To remove barriers to reporting, the College will generally not pursue potential policy violations of the parties that may have occurred in the context of an alleged violation of this policy (for example, Policy on Alcohol and Other Drugs).

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. 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.

- Retaliation is any adverse action taken against a person for making a good faith report of sexual misconduct or for participating in a sexual misconduct proceeding, including threats, intimidation, reprisals, or deliberately making false statements to intimidate, threaten, or cause harm
- Retaliation does not include good faith actions lawfully pursued in response to a report of sexual misconduct
- Retaliation can be committed by any individual or group of individuals, not just by the complainant or respondent
- Retaliation may be present even where there is a finding of “no responsibility” on the allegations of sexual misconduct

Acts of retaliation should be reported promptly to Student Life or the Title IX Coordinator. The Title IX Coordinator will determine how to address claims of retaliation.
The Formal Student Sexual Misconduct Process

This high-level summary of the on-campus student sexual misconduct process is provided for your convenience and does not provide complete details. This is not the official policy. For more detailed information, please view the Student Sexual Misconduct Policy and Procedures online or contact the Student Life office at (563) 387-1020 or the Title IX Coordinator at (563) 387-1189.

Report, Preliminary Inquiry, and Accommodations

Luther College receives a report when a responsible employee learns of an incident of sexual misconduct on our campus or involving Luther students. In response to every report, Luther conducts a preliminary inquiry to identify the parties involved and ascertain the misconduct being alleged. This inquiry typically takes the form of a conversation with the victim, and is usually completed without informing the alleged assailant or other individuals of the report.

Upon receipt of the report, Luther College offers a wide range of support services, including no contact directives, academic assistance, housing accommodations, and confidential counseling.

Finally, the Title IX Coordinator must determine the appropriate next steps. The College is generally able to allow the victim to decide if and when to initiate the student conduct process. If the victim does not wish to go through the formal student process, they may select an adaptable resolution instead. However, where there is a clear threat to campus safety Luther may be required to proceed with the formal student conduct process with or without the participation of the victim.

Formal Complaint and Investigation

A report becomes a complaint when the victim decides to initiate the student misconduct process. An investigation does not seek to determine what happened or assess credibility, but simply focuses on gathering evidence. A typical investigation includes an interview with and/or written statement from the complainant, an interview with and/or written statement from the respondent, interviews with witnesses, evidence supplied by the parties (photos, messages, etc.), other evidence (security camera footage, key card access, location photos, etc.), and external reports (medical, police, etc.).

The investigation stage typically takes two to four weeks to complete.

Review

Both parties are notified upon conclusion of the investigation and asked to meet with the chair of the Luther College Hearing Board to discuss hearing rules and procedures. The Hearing Board chair drafts an official charge letter identifying the issues for the hearing. In preparation for the hearing, parties will typically each meet several times with the chairperson, and during this phase each party:

- May review all investigation materials and object to any irrelevant or prejudicial statements
- May submit a clarifying statement in response to those materials
- May suggest witnesses to testify at the hearing
- May review a list of potential Hearing Board members and object to any who may be biased
- Receives notice of the hearing date, time, and location

The review phase typically takes two to three weeks to complete.
Hearing and Decision

The hearing is conducted by the chair, supported by a Hearing Board composed of staff, faculty, and students. All hearings are recorded. The hearing is set up so that the parties cannot see each other. Direct verbal questioning by the parties is not allowed; the board members ask all questions, and each party may write down questions to ask of the other party. A typical hearing might follow this structure:

1. Introductions and hearing procedures
2. Opening statements by the complainant and respondent
3. Questions for the complainant and respondent
4. Break
5. Witness statements and questions
6. Questions for the complainant and respondent
7. Break
8. Questions for the complainant and respondent
9. Closing statements by the complainant and respondent

At the conclusion of the hearing both parties are released and the Board remains to conduct deliberations. First, the Board determines by the preponderance of the evidence standard whether the respondent is responsible for each charge enumerated in the charge letter. Once the findings are determined, the Board proceeds to determine an appropriate sanction for the respondent. Both parties receive notice of the hearing outcome in simultaneous meetings, typically two or three business days after the hearing.

Appeal

Both parties are entitled to file appeals if they are dissatisfied with either the findings or the sanctions. However, valid grounds for appeal are limited to:

- Whether the hearing was conducted fairly
- Whether the decision was based on substantial information
- Whether the sanctions imposed were appropriate
- Consider new information not known to the appellant at the time of the hearing

Written appeals and responses, along with hearing materials and recordings, are reviewed by the Luther College Appeals Board, which consists of the vice president and dean for student life Corey Landstrom, a representative of the Faculty Interests Committee, and the president of the Student Senate. The Appeals Board does not meet with the parties. The parties will receive simultaneous notice of the outcome of the appeal.

Timeline

The student sexual misconduct process, from complaint through delivery of the Hearing Board’s decision, typically takes 5-8 weeks to complete. However, there may be delays due to investigation difficulties or breaks in the academic calendar. Both parties will be notified in writing of any changes to the expected timeline.

Concerns

Contact the Title IX Coordinator with any questions or concerns about the student sexual misconduct process.
Interim Remedies and Accommodations

Luther College provides the following remedies and accommodations to students who are party to a sexual misconduct proceeding. Other remedies tailored to individual situations are available.

A member of the Student Life office, in consultation with the Title IX Coordinator, will determine and implement appropriate interim remedies, accommodations, and other actions.

Health and Safety Remedies and Accommodations

- Access to medical and counseling services
- Luther College No Contact Directive or assistance in obtaining a civil protection order
- Facilitating a meeting with law enforcement to discuss safety planning and law enforcement options
- An escort to ensure safe travel between classes and other College activities
- Voluntary leave of absence

Academic Remedies and Accommodations

- Rescheduling of exams and assignments, and granting excused absences
- Alternate course completion options
- A change in class schedule, including the ability to transfer sections or drop a course without penalty
- Academic support services, including tutoring

Residential and Employment Remedies and Accommodations

- Room change for the involved students
- Modification of on campus job assignment or work schedule
- Assistance in resolving concerns about immigration status, visas, or financial aid

Interim Actions and Education

- Interim suspension, ban from campus, or paid/unpaid work leave
- Interim restriction on residence hall access
- Limitation on individual’s or organization’s access to certain College facilities or activities
- Training on sexual misconduct and healthy relationships
- Substance abuse assessment or education
# Title IX Team

<table>
<thead>
<tr>
<th>Title IX Coordinator</th>
<th>Main 28, (563) 387-1189, <a href="mailto:bills@luther.edu">bills@luther.edu</a></th>
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