Statement of Student Rights

A student accused of violating the Sexual Misconduct Policy is entitled:

- To be treated with respect by college officials.
- To take advantage of campus support resources.
- To experience a safe living, working, and educational environment.
- To have an advisor present during the investigation process, including all interviews and meetings with college officials. *(For Title IX cases, advisors must provide live cross-examination during the hearing.)*
- 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, if necessary, sanctions assessed, whether an appeal has been filed and/or the outcome of an appeal.
- To have irrelevant prior sexual history disallowed in hearing.
- To refuse to have an allegation resolved through alternative resolution procedures.
- To be provided amnesty for minor violations of college policy associated with the incident.
- 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.
Interim Supportive Measures

Luther College provides interim 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 coordination of care maybe implemented by the Title IX Coordinator or Deputy Title Coordinator and Director of Case Management.

Health and Safety Remedies and Support

- Access to medical (WMC & health service) and counseling services
- Mutual 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

Academic Remedies

- Faculty notification (not disclosing the nature of the incident)
- 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 or, if appropriate, incomplete(s)
- A change in class schedule, including the ability to transfer sections or drop a course (with record)
- Academic support services, including tutoring
- Voluntary leave of absence

Residential

- Assistance in finding alternative housing or room changes

Employment & Activities Remedies

- Modification of on campus job assignment or work schedule
- Referrals in resolving concerns about immigration status, visas, or financial aid
- Modification of extra-curriculars schedule (such as but limited to: athletics or organization.
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 privacy for interim supportive measures provided to the party, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the supportive 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 courts, 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 the Office of Student Engagement or the Title IX Coordinator. The Title IX Coordinator will determine how to address claims of retaliation.
This high-level summary of the on-campus student sexual misconduct 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 Title IX Sexual Misconduct Policy and Procedures online or contact the Office of Student Engagement at (563) 387-1020 or the Title IX Coordinator at (563) 387-1825.

Report, Preliminary Inquiry, and Supportive Measures
Luther College receives a report of an incident of sexual misconduct 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 investigation/process despite the wishes of the Complainant.

Formal Complaint and Investigation
A report becomes a complaint when the Complainant filed/signed a document alleging sexual misconduct 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. 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.

Hearing
The hearing is conducted by the chair, supported by a hearing board composed of students, faculty, and staff. If the Respondent is an employee the hearing board will be composed of only 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. Parties and relevant witnesses are required to avail themselves to live cross-examination.
Formal Grievance Process

Additionally, the board members will ask questions to parties and witness(es). A typical hearing might follow this structure:

1. Introductions and hearing procedures
2. Opening statement by the complainant
3. Opening statement by the respondent
4. Questions for the complainant and respondent
5. Submission to cross-examination for parties *(questioning by advisor)*
6. Break
7. Witness statements and questions
8. Submission of witness(es) to cross-examination *(questioning by advisor)*
9. Questions for the complainant and respondent
10. Break
11. Questions for the complainant and respondent
12. Closing statement by the complainant
13. Closing statement by the respondent
14. Conclusion

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 1-2 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:

- 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 Dean of Student Engagement, the chair 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. Attorneys may be attained at the party's personal expense.
Formal Grievance Process

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 misconduct 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. Community members’ well-being, 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 law enforcement and to press charges if warranted. However, the decision of whether to do that rests entirely with the Complainant. If the complainant 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.
Alternative Resolution Process

This high-level summary of the adaptable resolution 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 Title IX Sexual Misconduct Policy online or contact the Office of Student Engagement at (563) 387-1020 or the Title IX Coordinator at (563) 387-1825.

**Overview**

Situations involving sexual misconduct are unique and present myriad difficulties for the involved students. Although the College believes that the formal student conduct process is best-equipped to address sexual misconduct within our community, we recognize that in some cases student 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 student conduct process. This process is designed to address the alleged sexual misconduct, prevent its recurrence, ameliorate its effects, and ensure the safety of our community in a manner that supports the complainant.

However, an alternative resolution is not appropriate in every case. Both parties must participate voluntarily and agree on any outcome. Luther College will never pressure a complainant or respondent to participate in an alternative resolution or to agree to any particular outcome. The Title IX Coordinator must endorse the process itself and approve the agreed-upon outcome. When determining whether an alternative resolution is appropriate, the Title IX Coordinator will consider the safety of the campus community, the student conduct record of the respondent, previous reports of sexual misconduct about the respondent, the likelihood of success of the process, and the feasibility and outlook of the formal student conduct process.

Participation in the process is voluntary, so both parties have the right to terminate the process at any time. If the process fails, the complainant may elect to continue with a formal Title IX investigation instead. However, information shared during the alternative resolution may not be used in that formal conduct process.

If the process is successful, the Title IX Coordinator will review the terms of the agreement and will draft a formal document memorializing the agreement. Both parties will sign the document 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. Once the agreement is final, the parties will no longer have recourse to the formal student conduct process for this incident.

Alternative Resolution may take the form of a shuttle negotiation, or restorative justice.
Shuttle Negotiation

Shuttle negotiation is a structured negotiation process in which a College facilitator helps the parties reach an agreement that meets their needs. Shuttle negotiation does not involve any direct interaction between the parties and is useful in situations in which the complainant has specific needs. Shuttle negotiation is future-focused and does not typically involve discussion of the incident.

- The facilitator will meet with the parties to assess whether a shuttle negotiation is appropriate. The facilitator will identify topics over which negotiation will take place.
- The negotiation will take place in real time, with the parties and their advisors in separate rooms and the facilitator shuttling between them.
- If the parties are able to reach an agreement, the facilitator will document the terms. Later, the facilitator will draft a resolution agreement and invite the parties to sign it.

Restorative Justice Circle

Restorative justice is a process in which the respondent party accepts and acknowledges active accountability for their actions; to the best of their ability, repair the harm they caused to harmed parties and the community; and work to rebuild trust by showing understanding of the harm, addressing personal issues, and building positive social connections. Restorative justice involves direct interactions between the parties involved and their support person(s) and is only appropriate in situations in which the respondent is willing to accept accountability for their actions.

- The facilitator will meet with the parties and affected individuals to assess whether a restorative justice circle is appropriate and prepare them for the circle.
- The facilitator will guide the conversation through four rounds of discussion:
  1. Summary of incident and introductions
  2. Discussion of incident and its impact
  3. Discussion of steps towards resolution
  4. Reflection
- If the parties are able to reach an agreement, the facilitator will document the terms. Later, the facilitator will draft a resolution agreement and invite the parties to sign it.
### Title IX Team

#### Kasey Nikkel, Title IX Coordinator
- Main 30, (563) 387-1825, kasey.nikkel@luther.edu

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

#### Janet Hunter, Director of Case Management and Associate Dean
- Dahl Centennial Union 266E, (563) 387-2229, hunterja@luther.edu

Janet serves as one of the College’s investigators, Deputy Title IX Coordinators, and also works with students to coordinate appropriate supportive measures.

#### Jake Dyer, Assistant Dean for Student Engagement
- Dahl Centennial Union 266B, (563) 387-1839, dyerja01@luther.edu

Jake serves as a primary investigator for complaints of sexual misconduct. Jake also receives reports and works with students to coordinate appropriate supportive measures.

#### Kris Franzen, Director of Residence Life and Assistant Dean
- 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 live-in staff (hall directors and resident assistants) to ensure students have safe housing.

#### Bob Harri, Director of Campus Safety and Security
- Dahl Centennial Union 129, (563) 387-2111, harrro01@luther.edu

Bob serves as the lead investigator for complaints of sexual misconduct. As Director of Campus Safety and Security, Bob also oversees protective measures that keep our students safe.

#### Nan Hibbs, Asst Dean & Director of Student Rights & Responsibilities
- Dahl Centennial Union 266C, (563) 387-1008, hibbna01@luther.edu

Nan 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.

#### Erik Stoen, Asst Director of Campus Safety and Security
- Dahl Centennial Union 266C, (563) 387-2111, stoeer@luther.edu

Erik serves as an investigator for complaints of sexual misconduct and works to keep our students safe.

#### Ashley Benson, Dean of Student Engagement
- Dahl Centennial Union 266C, (563) 387-1020, abenson@luther.edu

Ashley serves as the chair of the Luther College Campus Appeals Board, and in that role she works with students to ensure students experienced fair and equitable resolution of sexual misconduct complaints.