

## Statement of Student Rights

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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

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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 & Luther Clinic), counseling services, MySSP and advocacy
- 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

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## Privacy & Confidentiality

Luther College seeks to balance the rights, needs, and privacy of those students who may have been harmed, 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.

# Formal Grievance Process

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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 the Complainant.

## Formal Complaint and Investigation

A report becomes a complaint when the Complainant filed/signed a document filed/signed 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 should avail themselves to live cross-examination.

# Formal Grievance Process

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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. Cross-examination for parties (*questioning by advisor for TIX cases*)
6. Break
7. Witness statements and questions
8. Cross-examination of witness(es) (*questioning by advisor for TIX cases*)
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
- 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**

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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.

# Prohibited Conduct

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## Sexual harassment, defined as:

### Quid Pro Quo “*This for That*”:

- 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

### 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

## Sexual Assault, defined as:

- **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
- **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
- **Dating Violence:** violence committed by a person who has been in a romantic or intimate relationship with another. At Luther, violence or threat of violence to one’s self is considered Dating Violence
- **Stalking:**
  - 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

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## Sexual Exploitation (not Title IX), defined as:

a situation in which a person takes abusive sexual advantage of another person

Examples include but not limited to:

- Voyeurism and invasion of sexual privacy:
  - 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

# Title IX Team



## Kasey Nikkel, Title IX Coordinator

- Main 126, (563) 387-1825, [kasey.nikkel@luther.edu](mailto: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. Additionally, Kasey facilitates restorative justice for some cases.



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

- Dahl Centennial Union 266E, (563) 387-2229, [hunterja@luther.edu](mailto: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](mailto:dyerja01@luther.edu)

Jake serves as a lead investigator for complaints of sexual misconduct. Jake also receives reports and works with students to coordinate appropriate supportive measures. Additionally, facilitates restorative justice.



## Kris Franzen, Director of Residence Life and Assistant Dean

- Dahl Centennial Union 124B, (563) 387-1330, [frankr03@luther.edu](mailto: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 for students.



## Bob Palmer, Director of Campus Safety and Security

- Dahl Centennial Union 129, (563) 387-2111, [bob.palmer@luther.edu](mailto:bob.palmer@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](mailto: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](mailto: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](mailto: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.