

LUTHER COLLEGE

POLICIES AND PROCEDURES

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| Department: | Student Life |
| Subject: | Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy and Procedures |
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I. Policy Statement on Bias Incidents, Hate Acts, Hate Crimes, Discrimination, and Harassment

Luther College is committed to creating and maintaining an atmosphere where all members of the community—students, faculty, staff, and visitors—are treated with respect and dignity.

It is the policy of Luther College to provide equal educational opportunities and equal access to facilities for all qualified persons. The college does not discriminate in employment, educational programs, and activities on the basis of, or a person's association with, a person(s), age, color, creed, disability, gender identity/expression, genetic information, national origin, race, religion, sex, sexual orientation, political affiliation, veteran status, or any other basis protected by federal or state law.

This commitment includes the provision of a campus environment that is free from discrimination and harassment. The college will not tolerate any form of discrimination or harassment and will not condone any actions or words that constitute such.

II. Purpose

This policy describes prohibited bias incidents, hate acts, hate crimes, discrimination, and harassment, identifies resources and support provided to individuals who may have experienced such conduct, and establishes procedures for reporting and adjudicating incidents. This policy is an elaboration of the Luther Code of Conduct. A bias incident, hate act, hate crime, discrimination, or harassment is violation of the Luther Code of Conduct and is subject to the same jurisdiction, regulations, conduct procedures, and sanctions as defined in the Code of Conduct and/or highlighted below.

III. Scope

All members of the Luther College community are accountable for compliance with this policy. The College is committed to eliminating bias incidents, hate acts, hate crimes, discrimination, and harassment, wherever they occur in the college community, by taking corrective action as a result of violations of this policy. Violations may lead to disciplinary action up to and including separation from the college.

Violations of this policy may impact an individual(s) and/or the Luther College community. After receiving a report of an alleged violation of the Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy, the College will determine the appropriate next steps in accordance with our policy. In most cases the College will allow the complainant to determine if

and when to initiate the student conduct process or other relevant process. However, in instances where extensive harm has occurred or there is risk to an individual(s) or the campus community, Luther may proceed with the student conduct process with the College serving as the complainant.

Acts of harassment that are not discriminatory or motivated by bias are not covered by this policy, but instead fall under the student [Code of Conduct](#). Luther College maintains a separate [Student Policy on Sexual Misconduct and Interpersonal Offenses](#) that governs incidents of sexual and gender-based harassment and contains information on reporting resources, policy definitions, and processes.

IV. Terms and Definitions

Protected classes

Luther considers the following protected classes in relationship to this policy: Age, color, creed, disability, gender identity/expression, genetic information, national origin, race/ethnicity, religion, sex, sexual orientation, political affiliation, or veteran status.

Bias Incident

A bias incident is a verbal, written, or physical behavior that threatens, intimidates, or marginalizes individuals or groups motivated by bias against a protected class and lacks a reasonable relationship to an educational, political, and/or artistic end. A bias incident can occur whether the behavior is intentional or unintentional and may or may not be an illegal act. In identifying a bias incident, the focus is on behavior that impacts an individual (or individuals) or the Luther College community. Not every behavior rises to the level of a policy violation and yet should be addressed as the behavior is inconsistent with our values. The determination whether an incident rises to a policy violation is dependent upon the behavior and context in which it occurred.

Hate Act

A hate act involves (1) violence, threat of violence, or actions that are likely to incite violence, or other serious violations of college policy that are (2) motivated by bias against a protected class, and (3) have the purpose or reasonably foreseeable effect of harassing, dehumanizing, or intimidating those persons or groups.

Hate Crimes

Hate crimes are defined and adjudicated by federal, state, and local governments. The U.S. Federal and Iowa State Codes follow below. 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 complainant does decide to work with local law enforcement, Luther College will invite law enforcement officers to our official interview with the complainant, so as to minimize the number of times the complainant needs to recall the incident. Once initiated, the legal process and the on-campus conduct processes function separately.

U.S. Federal Code § 249

(1) Offenses involving actual or perceived race, color, religion, or national origin.—Whoever, whether or not acting under color of law, willfully causes [bodily injury](#) to any person or, through the use of fire, a firearm, a dangerous weapon, or an [explosive or incendiary device](#), attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person, gender, sexual orientation, gender identity, or disability of any person.

Iowa Hate Crime Code

Iowa Code § 792A.2 “Hate crime” means one of the following public offenses when committed against a person or a person’s property because of the person’s race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability, or the person’s association with a person of a certain race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability. Assault in violation of individual rights under section 708.2C. 2. Violations of individual rights under section 712.9. 3. Criminal mischief in violation of individual rights under section 716.6A. 4. Trespass in violation of individual rights under section 716.8, subsections 3 and 4. 92 Acts, ch 1157, §9

Discrimination. Discrimination occurs when an individual is treated adversely because of membership in one of the legally protected groups under federal, state, or local law. Discriminatory practices based on bias against a person’s age, color, creed, disability, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, or veteran status are prohibited.

Harassment. Harassment occurs when unwelcome conduct based on an individual’s membership in a protected group unreasonably interferes with the individual’s work or educational environment. It includes verbal, visual, or physical conduct that has become so severe and pervasive that it has the purpose or effect of unreasonably interfering with an individual’s work or educational performance or creating an intimidating, hostile, or offensive working or educational environment. A determination as to whether harassment has occurred depends on the totality of the circumstances, such as the severity of a particular incident, the context in which it occurred, whether the conduct was repeated, whether the conduct was verbal or physical, and whether it was threatening or merely annoying.

Examples of prohibited conduct:

Prohibited conduct may include, among other things, making offensive or derogatory remarks, telling racist or sexist jokes about another person’s age, color, creed, disability, gender identity/expression, genetic information, national origin, race, religion, sex, sexual orientation, political affiliation, or veteran status, or membership in another protected class.

Additional examples of prohibited conduct that might be found to be a bias incident, hate act, hate crime, discrimination, or harassment include degrading, public tirades from a student, faculty, or staff member; deliberate, repeated humiliation, including deliberate humiliation on the basis of one of Luther’s protected classes; deliberate interference with the life or work of a person with a disability; deliberate desecration of religious articles or places; repeated unwanted proselytizing; repeated interference with the reasonable pursuit of religion; repeated insults about loss of personal and professional competence addressed to an older person; using a racial, ethnic, or other slur directly toward someone, to identify someone, or to target someone such as leaving a message on a door; imitating someone with any kind of disability, or imitating someone’s cultural norm or practice; drawing or creating pictures that imitate, stereotype, or belittle/ridicule someone because of their association (real or perceived) with one of Luther’s protected classes; racist or derogatory graffiti or images/drawings; vandalizing the personal property of someone who is a member of one of Luther’s protected classes.

Prohibited conduct may occur through:

- Direct oral expression and/or physical gestures or actions;
- Notes, letters, and other forms of written communication distributed via U.S. mail, campus mail, or otherwise made visible to the public;
- Phone calls, phone messages, or other forms of electronic verbal communication;

- Email, text messages, instant messaging, social networks, or other means of electronic communication.

Retaliation. Students have the right to report violations of this policy and participate as a witness in an investigation or hearing without fear of retaliation. Retaliation includes threats, intimidation, or reprisals. For example, it would be retaliatory to intimidate a witness or to shun a person from a student organization in retribution for the person having made complaints. It would also be retaliatory to use social media as a means to negatively influence the reporting student or witnesses. Good faith reports of violations of Luther College policy will generally not be considered retaliatory.

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

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

Interim Actions

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

A member of the Student Life Office, in consultation with the Vice President for Institutional Equity and Inclusion and Student Success, shall determine any interim measures. The Vice President for Institutional Equity and Inclusion and Student Success may also determine and implement interim measures.

V. Procedures and Guidelines

A. Resources and Support Services/How to Report Bias Incidents, Hate Acts, Hate Crimes, Discrimination, or Harassment

Luther College will make every effort to safeguard the identities of students and Luther College community members who seek help and/or report complaints of bias incidents, hate acts, hate crimes, discrimination, or harassment. While steps are taken to protect the privacy of individuals involved, the college may need to investigate an incident and take action once an allegation is known, whether or not the complainant chooses to pursue a complaint. Files related to complaints of bias incidents, hate acts, hate crimes, discrimination, or harassment will be kept confidential to the extent possible, consistent with the need for a thorough investigation.

On-Campus Confidential Resources. Students and other Luther College community members who feel they may have been the victim of any form of bias incident, hate act, hate crime, discrimination, or harassment may wish to seek confidential counseling or support. The following individuals are designated as confidential resources; they will seek to maintain information received as private and will not share confidential information with college officials or others, unless required to do so by law:

- Campus Pastors/Catholic Chaplain, College Ministries, x1040

- College Licensed Mental Health Counselors, Counseling Service, x1375
- College Nurses/Physicians, Health Services, x1045

On-Campus Reporting Resources. The privacy of all parties will be honored to the extent allowed and which provides for an appropriate investigation. The following individuals and offices are specially equipped to follow up on allegations of bias incidents, hate acts, hate crimes, discrimination, or harassment. These individuals and offices will receive reports with respect for the privacy of those allegedly involved in the incident:

- Vice President for Institutional Equity and Inclusion and Student Success, Presidential Suite, Dahl Centennial Union, x1001
- Center for Intercultural Engagement and Student Success, Dahl Centennial Union, x1014
- Student Life Office, Dahl Centennial Union, x1020
- Director of Residence Life, Dahl Centennial Union, x1330
- Hall Directors/Area Coordinators/Resident Assistants, residence halls
- Safety and Security Office, Dahl Centennial Union, x2111 (24 hours, seven days/week)
- Disability Services Officer, Preus Library, x1270
- Title IX Coordinator, Main Building 30, x1825
- Harassing Conduct Officers: Erin Flater, Valdres 272C, x1632; Ben Moore, Center for the Arts 107, x1112; Freeda Brook, Preus Library 220B, x2124; Jeff Leschensky, Center for Faith and Life 103, x1538

Bias Incident Report Form

Concerned individuals may report an incident via the online [Bias Incident Report Form](#); anonymous reports are permitted. If a reporter identifies an affected individual(s), a member of the Bias Incident Response Team will meet with the individual(s) to gather more information and discuss options to aid them in moving forward. Though the College may elect to pursue a complaint, deference is usually given to the complainant's decision when they do not wish to proceed with a formal complaint.

Bias Incident Response Team

The Bias Incident Response Team reviews and provides response options and referrals to support resources when a bias incident, hate act, or hate crime has occurred on campus. The team meets monthly to review reports and actions as well as when needed. An individual (or individuals) who report an incident shall receive an initial response from a college official. The team members include:

- Vice President and Dean for Student Life (Corey Landstrom)
- Vice President for Institutional Equity and Inclusion and Student Success (Lisa Scott)
- Associate Dean of Academic Affairs (Sean Burke)
- Assistant Dean and Director of Residence Life (Kris Franzen)
- Director of Human Resources (Marsha Wenthold)
- Title IX Coordinator (Kasey Nikkel)
- Director of Campus Safety and Security (Bob Harri)
- Elected faculty representative from the Faculty Interest Committee (TBA)

In its role, the Bias Incident Response Team reviews reports and makes determinations for immediate response(s) and referrals to the appropriate college officials and processes. The team does not investigate incidents or make findings of fact regarding an incident, nor does the team have authority to apply disciplinary sanctions. Members of the team shall consult with respective team members and/or other college officials about coordinating and documenting responses. Each semester the team shall provide a report to the community regarding reported

incidents that occurred during the previous semester. The team additionally shall recommend educational and other initiatives that positively foster an open, inclusive campus climate.

Decorah Area Resources. Students and other Luther College community members may also choose to seek out support or advice off campus. Resources include:

- Decorah Police Department, 563-382-3667
- Decorah Human Rights Commission, 563-382-3651

B. The College's response when a report has been made

1. Students who have experienced an alleged bias incident, hate act, hate crime, discrimination, or harassment are strongly encouraged to contact one of the officials listed above or submit a report using the online [Bias Incident Report Form](#); anonymous reports may be submitted using this form. Students may also report alleged crimes to the Decorah Police Department. Luther College can assist students with making such reports. If the reporter does not wish for any formal action to be taken and there is no present threat to the community, the incident will be documented for statistical purposes and monitored for evidence of a concerning pattern of behaviors or other factors.
A report becomes a complaint when the complainant decides to initiate the student conduct process or Luther College assumes the role of complainant. An investigation does not seek to determine what happened, assess credibility, or determine responsibility, but simply focuses on gathering relevant evidence and information.
2. If the individual decides to file a complaint with a college official, a written summary will be completed by the complainant or the receiving official in conjunction with the complainant. The summary shall include the following information: name, address, and phone number of the complainant; name of the respondent (if known); names of any witnesses (if known); nature of the complaint; date(s) and location(s) of the alleged incident(s); evidence on which the complaint is based. The address and phone number of the complainant will be kept private.
3. Bias incidents, hate acts, hate crimes, discrimination, and harassment are violations of the Luther College Student [Code of Conduct](#). The Code of Conduct outlines the procedures for addressing complaints against students including a description of the rights of complainants and respondents, student code of conduct procedures, proscribed conduct, possible sanctions, interim suspension, and appeals process.
4. Additional procedures related to managing complaints of bias incidents, hate acts, hate crimes, discrimination or harassment follow:
 - a. If the Respondent is a faculty or staff member, the respective [faculty](#) or [staff](#) handbook will outline the processes and procedures. If the Respondent is a student, the Code of Conduct and the processes outlined below will apply.
 1. If the reporter does not wish for any formal action to be taken and there is no present threat to the community, the incident will be documented for statistical purposes and monitored for evidence of a concerning pattern of behaviors or other factors.
 - b. For most complaints, investigations will be done by Campus Safety and Security or another designated investigator.
 - c. If the respondent is a student, the investigator will prepare a written report in consultation with the Director of Student Rights and Responsibilities. The investigation will generally include, at a minimum, separate interviews of the complainant and the respondent. The complainant and the respondent will be

- permitted to have Luther College support person - a college employee or student (not an attorney) - present during their respective interviews. The investigator will gather and review other evidence as deemed necessary.
- d. The Director of Student Rights and Responsibilities shall, based on the available evidence including the written report and the information gathered by the investigator, make an initial determination that the charges either have merit or do not have merit. They may, at their discretion, conduct additional investigations, or refer the case to a formal conduct process.
 - e. If the charges do have merit, the Director of Student Rights and Responsibilities may resolve the charges administratively by mutual consent of the parties involved. Such resolution shall be final, and there shall be no appeal or subsequent proceedings.
 - f. If the charges do have merit and cannot be resolved administratively, a formal hearing is held in a manner specified in the Code of Conduct for all college hearing boards. The complaint will be reviewed by the Hearing Board. The procedures for the Hearing Board are found in the [Code of Conduct Procedures](#) in the Student Handbook.
 - g. The complainant and the respondent will be permitted to each have an advisor who is a current member of the Luther College Community and who is not an attorney, present during the hearing; however, the advisor will not participate directly in the hearing.
5. A complaint of a bias incident, hate act, hate crime, discrimination or harassment will be resolved as follows:
- a. The charges may be resolved administratively (including the imposition of sanctions), by mutual consent of the parties involved, on a basis acceptable to the Director of Student Rights and Responsibilities.
 - 1. This may include the use of facilitated dialogue between the reporter, or affected individual(s), and the individual(s) who allegedly engaged in the concerning behavior(s) with the goal of reaching a mutually agreed upon outcome. This dialogue may also include witnesses who observed the behavior or individuals who were affected by the behavior. Restorative practices may be employed as part of this process.
 - 2. A conversation between a college official and the alleged perpetrator(s) to help the individual(s) understand the effects of their behavior and to warn them against future acts. This will be documented in the Student Life Office.
 - b. The Director of Student Rights & Responsibilities may convene an administrative hearing following the procedures outlined in the Code of Conduct Procedures in the Student Handbook.
 - c. The Director of Student Rights and Responsibilities may refer the case to the Hearing Board. If the Hearing Board finds that the Code of Conduct and/or the Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy has been violated the Hearing Board, in consultation with the Director of Student Rights and Responsibilities, shall impose sanction(s) as outlined in the Code of Conduct and/or take other appropriate action.
 - 1. The Hearing Board may find that the Code of Conduct and/or the Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy was not violated; the complaint will be dismissed.

2. The Hearing Board may conclude that information about the case was insufficient or contradictory and a decision cannot be reached; if that is the case, the complaint will be dismissed. Please note that the standard of proof that applies to a Hearing Board proceeding is a "preponderance of evidence" (which means a determination of "more likely than not").

6. Complainants and respondents will be notified in writing about the Hearing Board decision.

C. Appeals Process

To appeal a decision reached by the Hearing Board, please refer to the appeals process as outlined in the [Code of Conduct Procedures](#) in the Student Handbook.

VI. Confidentiality and Record

The privacy of all parties will be honored to the extent allowed and which provides for an appropriate investigation.