

LUTHER COLLEGE

POLICIES AND PROCEDURES

Department:	Human Resources (formerly Office of Financial Services)
Subject:	Nondiscrimination and Title IX Policy (formerly Nondiscrimination Statement)
Date Issued:	7/20/2010 and 10/23/2019
Date Revised:	10/12/2020
Approved By:	Reviewed at Cabinet, Approved by President, October 28, 2020

I. Policy

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 age, color, creed, disability, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, 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, including sexual harassment. This includes the offenses of quid pro quo, hostile environment, rape, fondling, incest, stalking, dating violence and domestic violence. The College will not tolerate any form of illegal discrimination or harassment and will not condone any actions or words that constitute such.

Title IX – No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

II. Purpose

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.

This policy complies with the Department of Education Administration Regulations for Direct Grant Programs section 75.500, State Administered Programs section 76.500 on nondiscrimination, and Title IX 34 CFR § 106.30.

III. Scope

This policy applies to all board members, faculty, staff (paid or volunteer), current and prospective students, and all other groups and organizations affiliated with Luther College.

IV. Terms and Definitions

- Discrimination – Discrimination occurs when an individual is treated adversely because of membership in one of the legally protected groups under federal or state law. Discriminatory practices based on bias against a person's age, color, creed, disability (actual or perceived), 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 where such conduct may have 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.
- 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. For more information on Federal §249 (1) or Iowa Hate Crime Code §792A.2.
- Sexual Harassment – Acts of sexual harassment are defined by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identify of those involved. 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. Sexual harassment occurs when an individual is subjected to unwelcome sexual advances, unwelcome requests for sexual favors or other unwelcome verbal or physical conduct of a sexual nature when:
 - Sexual Harassment:

- Quid Pro Quo: When an employee of College conditions the provision of an aid, benefit, or service of the College, on an individual's participation in unwelcome sexual conduct; and/or
 - 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.
- 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.
- Incest: Sexual intercourse, between persons who are related to each other within the degrees, wherein marriage is prohibited by law.
- 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.
- 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.
- Stalking, defined as: 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.

IV. Reporting Procedures for Complaints of Discriminatory and Harassing Conduct

- Individuals who become aware of or think they have been subject to discriminatory or harassing conduct are strongly encouraged to contact one of the Employee Grievance Investigators or Title IX Coordinator. Retaliation against individuals who file a complaint or who participate in the investigation or adjudication of a complaint is strictly prohibited.
- If the individual decides to file a complaint with one of the Employee Grievance Investigators or Title IX Coordinator, a written summary will be completed by the Complainant or Title IX Coordinator in conjunction with the Complainant.
- If the Respondent is a faculty member, the faculty handbook or [Title IX Policy](#) will outline the process and procedures for managing the complaint: www.luther.edu/academics/dean/handbook/.
- If the Respondent is a staff member, the staff handbook or [Title IX Policy](#) will outline the processes and procedures for managing the complaint: www.luther.edu/hr/staffhandbook/.

- If the Respondent is a student, the Code of Conduct or [Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy](#) or [Title IX Policy](#) will outline the process for managing the complaint: www.luther.edu/student-life/dean/student-handbook/.

V. Guidelines for Using the Nondiscrimination Statement

As key publications are revised across campus, we ask offices and departments to use the College's Nondiscrimination Statement. The inclusion of the Nondiscrimination Statement is required by federal regulation and is designed to highlight Luther College's commitment to creating and maintaining an atmosphere where all members of the community – students, faculty, staff and visitors– are treated with respect and dignity.

The Nondiscrimination Statement, as it should appear in print, appears below:

“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 age, color, creed, disability, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, veteran status, or any other basis protected by federal or state law. Title IX of the Education Amendments of 1972 – No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Questions regarding this policy or the complete [Title IX Policy](#) or [Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy](#) should be directed to Kasey Nikkel, Title IX Coordinator, 563-387-1825, kasey.nikkel@luther.edu, 700 College Drive, Decorah, Iowa 52101. Questions regarding Title IX may also be referred to the U.S. Department of Education's Office for Civil Rights, 800-421-3481, OCR@ed.gov, <http://www.ed.gov/ocr>.