

# LUTHER RICE COLLEGE & SEMINARY



## Title IX Policies and Procedures

2024-2025

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## **Equal Opportunity and Non-Discrimination Statement**

Luther Rice College and Seminary, in compliance with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, is an equal opportunity institution that does not discriminate on the basis of race, color, sex, national origin, age, disability or veteran status. This policy includes employment, admission policies, recruitment, financial aid, scholarship and loan programs and other institution-administered programs and activities except where required by specific religious tenets held by the institution in accordance with federal and state laws. The following Title IX Policies and Procedures include amendments made to the Title IX program effective August 14<sup>th</sup>, 2020. The amendments are included in a Summary of Major Provisions of the Department of Education's Title IX Final Rule document which is included in the appendix. Effective December 31, 2021, Luther Rice adheres to the amended provisions.

Individuals who believe they have been the victims of discrimination are encouraged to discuss their concerns with an appropriate administrator or an official reporting officer as identified in the Luther Rice Discrimination and Harassment Policy. Luther Rice will investigate such complaints in accordance with the Luther Rice Discrimination and Harassment Grievance Procedures. Notice of this policy is provided to students, employees, and third parties on the Luther Rice website.

## **Discrimination and Harassment**

Luther Rice will not tolerate, condone or permit discrimination, harassment (including but not limited to sexual offenses), and/or retaliation, whether engaged in by employees, students, or third parties (i.e., contractors or vendors) who conduct business with Luther Rice.

Luther Rice encourages the reporting of all incidents of discrimination, harassment, sexual misconduct, stalking, and/or retaliation, regardless of who the offender may be and regardless of whether the incidents originate on-campus. Luther Rice will respond to reports that arise from events that initially occurred off of the Institution's property or outside of an Institution's program or activity.

All complaints or any concerns about conduct that may violate this policy and retaliation should be filed with the Title IX Coordinator:

Evan Posey  
Executive Vice President and Provost  
Luther Rice College and Seminary  
3038 Evans Mill Rd.  
Lithonia, GA 30038  
770-484-1204 x5175

Upon receiving a complaint, the Title IX Coordinator will follow the procedures described in the Luther Rice Discrimination and Harassment Grievance Procedures.

## Scope

This policy applies to all Luther Rice students, faculty, administrators, staff and volunteers, as well as to contractors, consultants, and vendors doing business or providing services to the Institution (3rd Parties). In addition, Luther Rice's prohibition against discrimination, harassment, sexual misconduct, stalking, and/or retaliation applies not only in the educational and working environment, but also to all other work-related and educational settings, such as business trips and business-related social functions, as well as educational field trips and internship placements. Further, the prohibition applies whether or not the incident(s) occurs on Luther Rice property and whether or not the incident(s) occur during working/educational hours. This means that students and employees are protected under this policy in connection with all Luther Rice administrative, academic, educational, extracurricular, and other programs, whether those programs take place on campus or elsewhere. Luther Rice will respond to complaints that arise from events that initially occurred off Luther Rice property or outside an Institution sanctioned program or activity. In responding to off campus events, Luther Rice will consider the effects of the off-campus conduct on an individual's working or educational experience. Finally, Luther Rice's prohibition applies not only to oral and written communications, but also to e-mail, voice mail, Internet communications and searches, and other technology-assisted communications as applicable.

## Definitions

Disability: An individual with a disability is defined as any person who 1) Has a physical or mental impairment which substantially limits one or more major life activities 2) Has a record of such impairments, or 3) Is regarded as having such an impairment.

Discrimination: Conduct that is based upon an individual's race, color, sex, national origin, age, disability or veteran status that excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education or participation in a Luther Rice program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

Harassment: Harassment is covered under this policy if it is based upon an individual's race, color, sex, national origin, age, disability or veteran status. Harassment does not have to include intent to harm, be directed at a specific target or involve repeated incidents. Harassment violates this policy when it 1) Adversely affects a term or condition of an individual's employment, education or participation in a Luther Rice activity, or 2) Is used as the basis for or a factor in decisions affecting that individual's employment, education or participation in a Luther Rice activity, or 3) Creates a Hostile Environment (see Hostile Environment definition below).

Sexual Harassment: A form of sex discrimination prohibited by Title IX, is defined as unwelcome sexual advances, requests for sexual favors, other verbal, visual or physical conduct of a sexual nature, such as sexual assault or acts of sexual violence or other offensive behavior directed toward an employee or student because of or on account of the individual's sex, whether by a person of the opposite or same sex, when either 1) Submission to, rejection or toleration of

such conduct is made explicitly or implicitly a term or condition of an individual's employment, education or participation in a Luther Rice activity, or 2) Submission to, rejection or toleration of such conduct is used as a basis for or a factor in decisions affecting that individual's employment, education or participation in a Luther Rice activity, or 3) Such conduct creates a Hostile Environment (see Hostile Environment definition below).

Hostile Environment Harassment: A Hostile Environment based on race, color, sex, national origin, age, disability or veteran status exists when the harassment 1) Is sufficiently serious (e.g., severe, pervasive or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from Luther Rice programs or activities, or 2) When such conduct has the purpose or effect of unreasonably interfering with an individual's employment or learning at Luther Rice.

Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident, such as a sexual assault, even if isolated, can be sufficient. In addition, actions that constitute stalking, domestic violence or dating violence may rise to the level of creating a hostile environment.

In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive. Also, the following factors will be considered 1) The degree to which the conduct affected one or more students' education or individuals' employment 2) The nature, scope, frequency, duration and location of incident or incidents, and 3) The identity, number and relationship of persons involved.

Sexual Misconduct: Sexual misconduct means any conduct or act of sexual nature perpetrated against an individual without consent and specifically includes sexual assault, sexual exploitation and dating or domestic violence. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by men or women, and it can occur between people of the same or different sex. Luther Rice encourages reporting of all sexual misconduct.

Sexual Assault: Sexual assault means any actual, attempted or threatened sexual act with another person without the person's consent. Sexual assault includes but is not limited to 1) Rape and attempted rape 2) Intentional and unwelcome sexual touching (including disrobing or exposure), however slight, with any body part or any object, by a man or a woman upon a man or a woman, without effective consent or coercing, forcing or attempting to coerce or force another to touch you, themselves or a third party with any of these body parts or areas when such touching would be reasonably and objectively offensive 3) Any sexual act in which there is force, violence or use of duress or deception upon the victim 4) Any sexual act perpetrated when the victim is unable to give consent, and 5) Sexual intimidation, which includes but is not limited to a) Threatening, expressly or impliedly, to commit a sexual act upon another person without his or her consent b) Stalking or cyber-stalking, and c) Engaging in indecent exposure.

Sexual Exploitation: Sexual exploitation means any act of taking non-consensual, unjust or abusive sexual advantage of another person for one's own advantage or benefit or to benefit or advantage anyone other than the person being exploited. Sexual exploitation includes, but is not limited to 1) Causing or attempting to cause the incapacitation of another in order to gain a sexual advantage over such a person 2) Prostituting another person (e.g., personally gaining money, power or privilege from the sexual activities of another) 3) Non-consensual videotaping, photographing or audio-recording of sexual activity and/or distribution of these materials via media such as, but not limited to, the Internet 4) Exceeding the boundaries of consent 5) Voyeurism, and 6) Knowingly or recklessly transmitting a sexually transmitted disease (including HIV) to another individual.

Dating Violence: Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such a relationship will be gauged by its length, type and frequency of interaction.

Domestic Violence: Asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law or anyone else protected under domestic or family violence law.

Stalking: A course of conduct directed at a specific person that involves repeated (2 or more occasions) visual or physical proximity, nonconsensual communication, or verbal, written, or implied threats, or a combination thereof, that would cause a reasonable person fear. Stalking behaviors may include persistent patterns of leaving or sending the victim unwanted items or presents that may range from seemingly romantic to bizarre, following or lying in wait for the victim, damaging or threatening to damage the victim's property, defaming the victim's character or harassing the victim via the Internet by posting personal information or spreading rumors about the victim.

Retaliation: Action taken by an accused individual or an action taken by a third party against a person because that person has opposed any practices forbidden under this policy or because the person has filed a complaint, testified, assisted or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, stalking or sexual misconduct. Retaliation includes intimidating, threatening, coercing or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

Consent: Consent requires speech or conduct indicating a freely given agreement to have intercourse or participate in sexual activities. Previous sexual relationships, current relationships with the perpetrator or the use of alcohol and/or drugs may not be taken as an indication of consent. Moreover, consent cannot be given if a person's ability to resist

or consent is substantially impaired because of a mental or physical condition or if the individual is under the legal age of consent. The use of alcohol and/or drugs by perpetrator is not an excuse for violation of this policy.

## **Prohibition of Retaliation**

Luther Rice will not retaliate against an individual who makes a report of discrimination, harassment, sexual misconduct, stalking and/or retaliation or provides information concerning an act of discrimination, harassment and/or retaliation, nor permit any other employee or student to do so. Retaliation is a serious violation of the Luther Rice Discrimination and Harassment Policy. Any person found to have retaliated against another individual for reporting discriminatory harassment will be subject to appropriate discipline. Individuals who believe they have been subject to any acts of retaliation or threatened with retaliation, are requested to promptly report the same pursuant to the grievance procedures outlined below.

## **Obligation to Report**

All Luther Rice employees must, within 24 hours of receiving the information, report information they have about alleged or possible sexual discrimination, sexual harassment, and sexual misconduct involving students to the Title IX Coordinator.

Note: This obligation does not apply to an individual who is required by his or her profession and Luther Rice responsibilities to keep certain communications confidential (e.g., a professional counselor or Chaplain), except as may be required by state law.

Upon receiving a report of alleged or possible sexual discrimination, sexual harassment, or sexual misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken. The Title IX Coordinator will follow the procedures described in the Grievance Procedures. The Title IX Coordinator will take steps, either directly with the complainant or through a reporting employee, to provide information about the Institution's Grievance Procedures, as well as available health and counseling resources and options for criminal reporting.

## **Responsive Action**

Violations of this policy will be addressed through the Grievance Procedures set forth below. Consequences for violating this policy will depend upon the facts and circumstances of each particular situation.

If an investigation reveals that misconduct constituting discrimination, harassment, sexual misconduct, stalking and/or retaliation has occurred, appropriate responsive action will be implemented.

***Staff, Administrators and Faculty:*** Responsive action for employees found to have more likely than not violated this policy may include, for example, a requirement not to repeat or continue the discriminatory, harassing, or retaliatory conduct; training; referral to counseling; no-contact



orders; and disciplinary actions such as warnings, reprimands, withholding of a promotion or pay increase, reassignment, loss of oversight or supervisory responsibility, temporary suspension without pay, compensation adjustments, or termination. In addition to or in place of the above responsive actions, the Institution may assign any other sanctions as deemed appropriate.

*Students:* Responsive action for students found to have more likely than not violated this policy may include, for example, a requirement not to repeat or continue the discriminatory, harassing, or retaliatory conduct; training; referral to counseling; no-contact orders; removal from leadership positions; loss of privileges; and disciplinary actions such as warnings, reprimands, general disciplinary probation, restrictive disciplinary probation, suspension, or dismissal. In addition to or in place of the above responsive actions, the Institution may assign any other sanctions as deemed appropriate.

In instances where Luther Rice is unable to take responsive action in response to a violation of this policy because a complainant insists on confidentiality or for some other reason, Luther Rice will nonetheless pursue other responsive steps to limit the effects of the conduct at issue and prevent its recurrence. See Absence of Complaint below.

In addition to the above, the Institution may also take appropriate action if it does not find discrimination or harassment that creates a hostile environment or results in a tangible employment or educational action, but

1. the Institution found that the respondent engaged in disruptive behavior or
2. to prevent the creation of a hostile environment.

See the Luther Rice Grievance Procedure below for additional information.

### **Absence of a Grievance Complaint**

Regardless of whether a formal complaint under the grievance procedures is filed (including where a complainant is unwilling to participate in the investigation process), if Luther Rice has credible notice — either direct or indirect — of possible discrimination, harassment, sexual misconduct, stalking and/or retaliation against a member of its community or notice of a hostile, harassing or discriminatory environment, it will take immediate and appropriate steps to evaluate what occurred and determine if further action is required as well as prevent any further recurrence. Any response to such notice may be limited if the events giving rise to such notice cannot be verified by independent facts. Luther Rice will conduct such an inquiry regardless of whether there is a concurrent criminal investigation being conducted by the local authorities. By way of example, Luther Rice will investigate allegations of sexual harassment, and take appropriate action, even if a complainant does not wish to pursue the disciplinary process; however, a complainant should be aware that any response may be hindered by the complainant's wish to anonymity and/or inaction.

### **Prevention and Education**

Luther Rice is committed to preventing and eliminating impermissible discrimination and harassment of students, faculty, and staff. To that end, Luther Rice will broadly disseminate this

policy, distribute a list of resources available to respond to concerns of harassment and discrimination and related retaliation, and continue to assess development of educational programs for students and employees.

Luther Rice makes available the *Luther Rice Title IX Education and Training Video* online via the Luther Rice website [www.LutherRice.edu](http://www.LutherRice.edu), the annual Consumer Disclosure, and to faculty and staff annually (via email or staff/faculty meetings).

The Title IX Coordinator is responsible for oversight and coordination of prevention and training for Luther Rice. Campus education and prevention programs will be reviewed on an annual basis to ensure quality and address resource needs. If deemed necessary, training and education may be provided by appropriately trained campus personnel and or external partners, either in person or online.

## **Annual Report**

The Title IX Coordinator maintains an annual report documenting:

1. the number of reports or complaints received pursuant to this policy;
2. the categories of those involved in the allegations;
3. the number of policy violations found; and
4. examples of sanctions imposed for policy violations.

## **Policy Updates**

This policy will be reviewed annually. Students and employees will be notified of any changes made to the Policy during the year.

## **Grievance Procedures**

### **Complaints and Reporting**

Complaints and third-party reports of discrimination, harassment, sexual misconduct, stalking and/or retaliation should be made to the Title IX Coordinator. The contact information for the Luther Rice Title IX Coordinator is listed below:

Evan Posey  
Executive Vice President and Provost  
Luther Rice College and Seminary  
3038 Evans Mill Rd  
Lithonia, GA 30038  
770-484-1204 x 5175

Complaints and reports should be made as soon as possible after an incident. The Title IX Coordinator coordinates and tracks all complaints and reports under this procedure.

There are several avenues available for submitting a complaint or report:

To file a complaint or report:

- Leave a private voice message for the Title IX Coordinator (x5174); and/or
- [Send an email](#) to the Title IX Coordinator; and/or
- Mail a letter to the Title IX Coordinator; and/or
- Visit the Title IX Coordinator's office; and/or
- Report to another trusted Luther Rice official (e.g., Director for Student Affairs, Professor, Advisor) who will provide information to the Title IX Coordinator.

If there is a complaint about the Title IX Coordinator, or if the Title IX Coordinator has a complaint, that complaint should be filed with the Executive Vice President and Provost of the Institution. The Executive Vice President and Provost will appoint another trained individual to take the place of the Title IX Coordinator for purposes of the complaint.

## **Filing with External Agencies**

In addition to, or in lieu of, the filing of a Grievance pursuant to the Luther Rice Grievance Procedures:

*Students (either undergraduate or graduate) and student applicants may file formal complaints with the following agency:*

### **United States Department of Education, Office for Civil Rights**

61 Forsyth St. S.W., Suite 19T70, Atlanta, GA 30303-3104

Telephone: 404-562-6350; TDD: 404-331-7236

(Must file within 180 calendar days from date of discrimination.)

*Employees and applicant for employment may file formal complaints with the following agencies:*

### **U.S. Equal Employment Opportunity Commission**

100 Alabama St. SW, Suite 4R30, Atlanta, GA 30303

Telephone: (800) 669-4000

## **Confidentiality of Complaints and Reports**

Luther Rice will treat all information submitted in connection with such a grievance as confidential. Subject to FERPA and other applicable privacy laws, however, the Luther Rice official investigating the grievance will inform individuals with a legitimate need to know of the grievance and may provide them related information as necessary to allow the Luther Rice official to conduct a meaningful and thorough investigation. The Luther Rice official investigating the grievance will inform all involved parties of the need to maintain the confidentiality of such information.

In addition, information about complaints and reports, absent personally identifiable information, may be reported to Luther Rice officials and external entities for statistical and analysis purposes pursuant to federal and state law and Luther Rice policy.

### **Complainant Request for Confidentiality**

A complainant may make a request for anonymity. This type of request means that the complainant does not want his/her identity known to the accused or witnesses, or that the complainant wishes to withdraw a report. In these situations, Luther Rice will make all reasonable attempts to comply with this request; however, Luther Rice's ability to investigate and respond may be limited and the complainant will be so informed. Moreover, because of laws relating to reporting and other state and federal laws, Luther Rice cannot guarantee confidentiality to those who report incidents of sexual crimes, except where those reports are privileged communications with those in legally protected roles. The professional being consulted will, if possible, make these limits clear before any disclosure of facts.

An individual can speak confidentially with certain individuals in legally protected roles. Exceptions to maintaining confidentiality are set by law; for example, physicians and nurses who treat any physical injury sustained during a sexual assault are required to report it to law enforcement. In addition, physicians, nurses, psychologists, psychiatrists, teachers and social workers must report a sexual assault committed against a person under age 18.

Considerations with respect to a complainant's request for confidentiality include factors such as Luther Rice's ability to respond effectively, to prevent further harassment or to ensure the safety of the Luther Rice community.

As required by law, all disclosures to any Luther Rice employee of an incident of a sexual crime must be reported to the Department of Public Safety for crime statistics record keeping. In making such a report, all personally identifiable information is kept confidential, but statistical information must be passed along to Public Safety regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given), for publication in the annual Safety and Security report (i.e., Clery Report). This report helps to provide the community with a clear picture of the extent and nature of campus crime to ensure greater community safety. Local law enforcement agencies and campus security authorities are federally mandated to report crime statistics.

Survivors of a sexual crime should be aware that administrators must also issue timely warnings for incidents reported to them that continue to pose a substantial threat of bodily harm or danger to members of the campus community. Luther Rice will ensure that a survivor's name and other identifying information is not disclosed, while still providing enough information for members of the Luther Rice community to make safety decisions in light of the danger.

### **Role of Title IX Coordinator**

The Title IX Coordinator is a neutral administrator in any investigatory and disciplinary proceedings involving discrimination and harassment, including incidents of sexual assault or

misconduct. The Title IX Coordinator is responsible for coordinating discrimination and harassment investigations and proceedings and working with all involved parties. The Title IX Coordinator does not, however, determine if a policy violation has occurred. In addition, the Title IX Coordinator serves as the overall campus coordinator for purposes of Title IX compliance and identifies and addresses any patterns or systemic problems that arise during the review of sexual harassment complaints. The Title IX Coordinator also oversees Luther Rice's harassment and discrimination education and training programs.

### **Immediate Action and Interim Measures**

The Institution may take interim measures to assist or protect the parties and others during the grievance process, as necessary. Such measures for a student complainant may include arranging for changes in class schedules, issuing a no-contact order, obtaining counseling, and modifying test schedules or other class requirements temporarily. For an employee complainant, the Institution may temporarily reassign or place on administrative leave an employee alleged to have violated the Luther Rice Discrimination and Harassment Policy.

Additionally, the Institution may enact any other measure which can be tailored to the involved individuals to achieve the goals of this Policy. Such interim measures may be implemented regardless of whether the victim chooses to report a crime to campus Public Safety or local law enforcement.

### **False and Malicious Accusations**

False and malicious accusations of harassment, as opposed to complaints that even if erroneous, are made in good faith, may be subject to appropriate disciplinary action up to and including termination or dismissal.

### **Resolution Processes**

#### **Presence of an Advisor**

All parties are allowed an advisor of their choosing to guide and accompany them throughout the campus resolution process. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them.

The parties are entitled to be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake, interviews and appeals. Advisors may not address campus officials in a meeting, interview or hearing unless invited to.

#### **Direct Resolution**

An individual who believes that she or he is the subject of discrimination or harassment ("complainant") may attempt to resolve the issue with the respondent directly, except where allegations involved sexual assault. This attempt need not be confrontational in nature. It may involve speaking directly to the respondent (either face-to-face or by telephone) or writing an email or letter to the respondent.

Note that any attempt at direct resolution between a complainant and the respondent should be regarded as strictly voluntary on the part of the complainant. Under no circumstances should a complainant feel pressured to address the respondent directly or otherwise handle the matter alone, and a decision not to confront an individual she or he believes to be discriminatory or harassing will not be viewed negatively. Moreover, the complainant always has the right to pursue other methods of resolution as described below without being required to attempt to resolve the complaint directly with the respondent. Further, an effort at direct resolution is not appropriate where the alleged involves sexual assault.

If direct resolution measures prove unsuccessful, an individual may choose to report the situation and pursue other methods of resolution as described below.

### **Receipt of a Complaint**

If a complainant chooses to file a complaint, the Title IX Coordinator, within five days of receiving a complaint, will meet with the complainant (or contact via phone if the individual is not local) to discuss the matter and inform the complainant about:

- available counseling, medical, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other support services available both within institution and in the community, if applicable to the situation;
- the option to avoid contact with the respondent during the pendency of the investigation;
- the importance of preserving evidence;
- the fact that completing a forensic examination would not require the Complainant to file a police report.
- rights under the Luther Rice Harassment and Discrimination Policy, including the right to seek informal or formal resolution of the matter as applicable; and
- the right to:
  - notify proper law enforcement authorities, including on-campus and local police,
  - be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses, and
  - decline to notify such authorities.

Within five (5) days after meeting (or via phone if not local) with the complainant, the Title IX Coordinator will meet separately (or via phone if not local) with the respondent to discuss the matter and explain rights under Title IX rights (if applicable) and the Luther Rice Harassment and Discrimination Policy. The Title IX Coordinator will also provide the accused with a copy of the Luther Rice Harassment and Discrimination Policy and the grievance procedures. If the respondent chooses not to participate or refuses to answer a complaint, such nonparticipation will not prevent the matter from proceeding.

Additionally, following these meetings, the Title IX Coordinator will make a preliminary, non-binding, assessment of the information provided by the complainant to determine whether that information, if true, would pose an imminent threat of immediate harm to the complainant or others. If there is an imminent threat of immediate harm then, consistent with the investigation

procedures identified below, interim measures to assist or protect the parties during the grievance process will be implemented. The need for such temporary measures shall be reevaluated on a regular basis during the pendency of the investigation and any subsequent proceedings to ensure the need for such interim measures remain present.

## **Informal Resolution**

Informal resolution is not an option in cases involving allegations of sexual assault. In cases involving other forms of discrimination or harassment, the Title IX Coordinator (or a trained designee) will determine whether informal resolution is an appropriate mechanism of resolution based on information provided about the incident.

In cases where informal resolution is deemed to be an option, parties wishing to pursue this form of resolution will confirm such request in writing. The parties should not contact each other to discuss informal resolution. While Luther Rice encourages early resolution of a conflict, it does not require that parties participate in the informal resolution process. Moreover, the parties have the right to end the informal resolution process at any time and begin the formal investigation stage of the complaint process. If the matter is resolved during the process, the case will be closed. If, however, the matter cannot be resolved, or an individual chooses to end the informal resolution process, then the matter will proceed to the formal resolution stage.

## **Formal Resolution**

When a matter is referred for formal resolution, the Title IX Coordinator will assign an investigator to conduct a formal investigation. At the discretion of Luther Rice, a consultant or other designee may be engaged to assist in the formal investigation process. Any investigator assigned to the case will be impartial.

Note: Even if an external criminal complaint is being conducted by law enforcement, Luther Rice will proceed with its own internal investigation and will not unduly delay such investigation.

## **Formal Investigation Timeframe**

Luther Rice will strive to complete the formal investigation, including the issuance of a final report of findings in as timely and efficient a manner as possible within 20 days of receipt of a complaint. However, this timeframe may be extended based on factors such as, but not limited to, schedule and availability of witnesses, holidays or semester breaks, and complexity of the complaint. If an investigation cannot be completed within 20 days of receipt of the complaint, then the Title IX Coordinator will notify the complainant and accused of that fact and provide a timeframe for completing the investigation.

## **Investigation Procedures**

In conducting the investigation, the investigator may interview the parties (if available) and any other persons believed to have relevant factual knowledge, as well as review relevant documents

as appropriate. The parties will have an equal opportunity to present relevant witnesses and other evidence. However, neither party will have the right to cross-examine the other.

Both parties will receive timely notice of any meetings scheduled with the Title IX Coordinator or Investigators. Both parties will likewise have equal access to any information that will be used during informal or formal resolution processes, including appeals.

The investigation will result in a written report detailing findings of the investigation and determining whether there is a preponderance of the evidence to believe that the respondent engaged in a policy violation. Preponderance of evidence means that the investigator must be convinced based on the information provided that a policy violation was more likely to have occurred than to not have occurred in order to find the accused responsible for violating the policy.

In making the determination of whether harassment has created a hostile environment, the investigator will consider not only whether the conduct was unwelcome to the complainant, but also whether a reasonable person in the complainant's situation would have perceived the conduct as objectively offensive. The investigator's findings will be in writing and will be provided to the Title IX Coordinator.

**Option 1:** If the investigator finds a preponderance of the evidence of a policy violation does not exist, the Title IX Coordinator will simultaneously provide the investigator's written findings to both the complainant and accused, and the matter is closed. Either party may appeal the finding to the appropriate Administrative Hearing Committee as set forth below.

**Option 2:** If investigator finds that a preponderance of the evidence of a policy violation does exist, the investigator's written report will include a rationale for the result, recommendations for steps to take to prevent recurrence of any such violation, and as appropriate, remedies for the complainant. The written finding will be immediately provided by the Title IX Coordinator to one of the following discipline authorities for a determination of appropriate sanctions as follows:

- a. If the respondent is a student, the matter will be forwarded to the Executive Vice President and Provost for imposition of sanctions. Sanctions may include suspension, expulsion, probation, a warning, or any other sanction set forth in the Student Handbook or this policy;
- b. If the respondent is an administrator or staff member, the matter will be forwarded to the President or Executive Vice President for imposition of sanctions;
- c. If the respondent is a faculty member, the matter will be forwarded to the Executive Vice President and Provost for imposition of sanctions;
- d. If the accused is the President, the matter will be referred to the Chair of the Board of Trustees for imposition of sanctions;
- e. If the accused is a third party, the Executive Vice President will enact appropriate responsive action as appropriate, which may include removal from the campus(es) and termination of any applicable contractual or other arrangements.



Written notification of the sanctions, including the rationale thereof, will be provided to the Title IX Coordinator by the respective discipline authority within ten days of receiving the investigator's report. The Title IX Coordinator will provide the investigator's written report and written notification of the sanction to the parties simultaneously within five business days of the receiving the authority's decision.

Both parties will be afforded an opportunity to file an appeal of the resolution as set forth below.

### **Formal Resolution Timeframe**

Luther Rice will strive to complete all aspects of the formal resolution, including the issuance of a final report of findings and, if applicable, a summary of sanctions, to the complainant and accused, in as timely and efficient a manner as possible within sixty (60) days of receipt of a written complaint (or within 60 days after it is determined that a written complaint will not be provided). However, this timeframe may be extended based on factors such as, but not limited to, schedule and availability of witnesses, holidays or semester breaks, and complexity of the complaint. If formal resolution cannot be completed within sixty (60) days of receipt of the complaint, then the Title IX Coordinator will notify the complainant and accused of that fact and provide a timeframe for completion.

### **Appeals**

A request for a hearing before the appropriate Administrative Hearing Committee (comprised of Luther Rice Administrators; and Staff in needed) must be filed within five working days, of the receipt of the investigator's decision, unless good cause can be shown for an extension of time. The request for a hearing must be filed with the Title IX Coordinator. The request for a hearing must be in writing and must describe the appellant's desired outcome; as well as describe how the appellant believes the investigator:

1. exhibited unfair bias which influenced the result of the investigation;
2. failed to conduct a thorough investigation;
3. issued arbitrary findings and recommendations;
4. had a conflict of interest; or
5. issued findings and recommendations that if adopted would result in substantial injustice.

As soon as practicable, the Title IX Coordinator will provide the non-appealing party and the Chair of the Administrative Hearing Committee with a copy of the written appeal.

### **Standard of Review**

The committee reviews the findings and recommendations of the investigator. The committee may approve, overturn, or modify the findings and recommendations of the investigator if it finds that the investigator more likely than not:

1. exhibited unfair bias which influenced the result of the investigation;
2. failed to conduct a thorough investigation;

3. issued arbitrary findings and recommendations;
4. had a conflict of interest; or
5. issued findings and recommendations that if adopted would result in substantial injustice.

## **Notice of Hearing**

Within five working days of receipt of the written request for a hearing, the Title IX Coordinator will notify the complainant and the respondent of the time and place of the formal hearing before the Administrative Hearing Committee. This process might be extended during periods between academic semesters when a quorum of the committee cannot be convened. The hearing will normally be scheduled within twenty days of receipt of the written appeal. If such an appeal causes a significant delay, the Title IX Coordinator will consider interim measures, as described above, to continue to protect the parties during the process.

## **The Hearing**

The chair of the Administrative Hearing Committee will conduct the hearing. The hearing will be a non-adversarial proceeding and strict rules of evidence will not be applied. However, the chair of the committee may limit or refuse to allow evidence or testimony that is not reasonably related to a determination of whether a violation of the policy occurred.

The hearing will be conducted to assure fairness and accuracy in fact-finding. The parties and witnesses will address the members of the Committee rather than each other. The chair will be the final arbiter of all matters of procedure. All hearings are closed to the public.

## **The Decision**

Within five working days of the conclusion of the formal hearing the Administrative Hearing Committee will submit a decision in writing to the parties and the Title IX Coordinator. The written decision will determine whether the investigator:

1. exhibited unfair bias which influenced the result of the investigation;
2. failed to conduct a thorough investigation;
3. issued arbitrary findings and recommendations;
4. had a conflict of interest; or
5. issued findings and recommendations that if adopted would result in substantial injustice; and recommendations, if any, regarding redress of the complaint as well as any other recommendations, as applicable, for precluding further policy violations.

## **Disability Accommodations**

Luther Rice will make arrangements to ensure that students with disabilities are provided appropriate accommodations as needed to participate in this grievance procedure. Requests for accommodations must be made to the Title IX Coordinator, who will review the supporting disability related documentation, make a decision about the request, notify the student about approved accommodations and make arrangements for the accommodations. Accommodations may include, but are not limited to, providing interpreters for the deaf, providing recordings of materials for the blind, and assuring a barrier-free location for the proceedings.

## **Rights of the Complainant and Accused**

### **Complainants are afforded the following rights in this process:**

1. To be treated with respect, dignity, and sensitivity throughout the process;
2. To seek support services at Luther Rice;
3. To confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). Luther Rice will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know;
4. To be informed of the Luther Rice Discrimination and Harassment Policy and procedures;
5. To a prompt and thorough investigation of the allegations;
6. To review all applicable documents prior to a due process review;
7. To challenge any individual taking part in a due process proceeding if a conflict of interest is present;
8. To participate or decline to participate in the due process procedure. However, Luther Rice will determine an outcome with the information available pursuant to applicable due process proceedings;
9. To refrain from making self-incriminating statements;
10. To appeal the decision made by a due process proceeding and/or sanctions imposed;
11. To be notified, in writing, of the case resolution — including the outcome of any appeal;
12. To report incidents of sexual assault or misconduct to law enforcement if she/he wishes to do so;
13. To understand that information collected in this process may be subpoenaed in criminal or civil proceedings

### **Individuals accused of a violation of the Luther Rice Discrimination and Harassment Policy are afforded the following rights in this process:**

1. To be treated with respect, dignity, and sensitivity throughout the process;
2. To seek support services at Luther Rice;
3. To confidentiality and protection under the Family Education Rights and Privacy Act (FERPA). Luther Rice will make all reasonable efforts to ensure preservation of privacy, restricting information to those with a legitimate need to know;
4. To be informed of the Luther Rice Discrimination and Harassment Policy;
5. To a prompt and thorough investigation of the allegations;
6. To review all applicable documents prior to a due process review;
7. To challenge any individual taking part in a due process proceeding if a conflict of interest is present;
8. To participate or decline to participate in the due process procedure. However, Luther Rice will determine an outcome with the information available pursuant to applicable due process proceedings;
9. To refrain from making self-incriminating statements;
10. To appeal the decision made by a due process proceeding and/or sanctions imposed;
11. To be notified, in writing, of the case resolution — including the outcome of the appeal;
12. To understand that information collected in this process may be subpoenaed in criminal or civil proceedings.

# Appendix

Summary of Major Provisions of the Department of Education's Title IX Final Rule

Effective August 14, 2020

Effective August 14, 2020

Published Document:

<https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>

Printed Version (PDF):

<https://www.govinfo.gov/content/pkg/FR-2020-05-19/pdf/2020-10512.pdf>