

# **THE UNIVERSITY OF IOWA POLICY ON SEXUAL HARASSMENT**

## Division 1. Policy

### **Section 1. RATIONALE.**

(a) Sexual harassment is reprehensible and will not be tolerated by the University. It subverts the mission of the University, and threatens the careers, educational experience, and well-being of students, faculty, and staff. In both obvious and subtle ways, sexual harassment is destructive to individual students, faculty, staff, and the academic community as a whole. When, through fear of reprisal, a student, staff member, or faculty member submits, or is pressured to submit, to unwanted sexual attention, the University's ability to carry out its mission is undermined.

(b) Sexual harassment is especially serious when it threatens relationships between teacher and student or supervisor and subordinate. In such situations, sexual harassment unfairly exploits the power inherent in a faculty member's or supervisor's position. A supervisor's or instructor's control of grades, compensation, recommendations, promotions, and the like, can have a decisive influence on a student's, staff member's, or faculty member's career at the University and beyond.

(c) Although sexual harassment most often takes place in situations where a power differential exists between the persons involved, the University also recognizes that sexual harassment may occur between persons of the same University status. The University will not tolerate behavior of a sexual nature by members of the University community that creates an intimidating or hostile environment for employment, education, on-campus living, or participation in a University activity.

### **Section 2. PROHIBITED CONDUCT – POLICY STATEMENT.**

The University of Iowa forbids sexual harassment by any member of the University community.

(a) Definition of Sexual Harassment. For purposes of this Policy, "Sexual Harassment" means persistent, repetitive or egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret, in the full context in which the conduct occurs, as harassment of a sexual nature, when:

- (1) Submission to such conduct is made or threatened to be made explicitly or implicitly a term or condition of employment, education, on-campus living environment, or participation in a University activity;
- (2) Submission to or rejection of such conduct is used or threatened to be used as a basis for a decision affecting employment, education, on-campus living environment, or participation in a University activity; or,
- (3) Such conduct has the purpose or effect of unreasonably interfering with work or educational performance, or of creating an intimidating or hostile environment for employment, education, on-campus living, or participation in a University activity.

(b) Evidence of Sexual Harassment. Behavior that may be considered evidence of prohibited sexual harassment includes, but is not limited to, the following:

- (1) Physical assault;
- (2) Direct or implied threats that submission to sexual advances will be a condition of, or that failure to submit to such advances will adversely affect, employment, work status, promotion, grades, letters of recommendation, or participation in a University activity;
- (3) Direct propositions of a sexual nature;
- (4) Subtle pressure for sexual activity, an element of which may be repeated staring;
- (5) A pattern of sexually explicit statements, questions, jokes or anecdotes, whether made orally, in writing, or through electronic media (See also the Acceptable Use of Information Technology Resources policy, Section II.19, *University Operations Manual*);
- (6) A pattern of conduct involving:
  - (a) Unnecessary touching;
  - (b) Remarks of a sexual nature about a person's clothing or body; or,
  - (c) Remarks relating to sexual activity or speculations concerning previous sexual experience;
- (7) A display of graphic sexual material (not legitimately related to the subject matter of a course if one is involved) in a context where others are not free to avoid the display because of an employment or educational requirement or without surrendering a privilege or opportunity that others may reasonably expect to enjoy in that location.

In determining whether alleged conduct constitutes sexual harassment, the investigator will consider all available evidence and the totality of the circumstances, including the context in which the alleged incident(s) occurred. Although repeated incidents generally create a stronger claim of sexual harassment, a single serious incident can be sufficient. Determinations will be made on a case-by-case basis. Conduct which constitutes a protected exercise of an individual's rights under the First Amendment to the United States Constitution shall not be deemed a violation of this Policy.

## Division 2. Procedures

### Section 3. BRINGING A COMPLAINT.

(a) ~~(a)~~ A complaint that this Policy has been violated may be brought through informal or formal channels by any member of the University community, including a third party, or by the University itself. A third party complaint must state specific and credible allegations to warrant an investigation. There is no time limit for bringing a complaint; however it may be difficult to

corroborate the allegations made in a complaint brought after significant time has passed. Therefore, prompt reporting of complaints is strongly encouraged.

(b) Substantial weight will be given to the wishes of ~~a complainant~~ the alleged victim when determining whether to investigate a complaint, but the University may investigate a complaint even without the ~~complainant's~~ victim's consent if circumstances warrant (such as when there are multiple complaints against the same person or allegations that are particularly egregious).

(c) Persons who wish to consult with someone about a specific situation on a confidential basis or learn more about enforcement of the Policy on Sexual Harassment may contact any of the following offices or organizations:

- the Office of the Ombudsperson (for faculty, staff, or students)
- Faculty and Staff Services (for faculty or staff)
- University Counseling Service (for students)
- Women's Resource and Action Center (for faculty, staff, or students)
- Rape Victim Advocacy Program (for faculty, staff, or students)

These offices are exempt from the reporting requirements set forth in Section 4(d) of this Policy. Other offices may be required to report allegations as described in Section 4(d).

#### **Section 4. INFORMAL RESOLUTION OF COMPLAINTS**

(a) A complaint may be brought informally to any academic or administrative officer of the University. For purposes of this Policy, "academic or administrative officer" means any collegiate dean, any faculty member with administrative responsibilities at the level of Departmental Executive Officer (DEO) or above, or a student's advisor; the Director of Affirmative Action, any Vice President, or the Provost; and any director, supervisor, or human resources representative.

(b) A person to whom a complaint is brought will counsel the complainant as to the options available under this Policy and, at the complainant's request, will (i) help the complainant resolve the complaint informally and/or (ii) refer the complainant to the Office of Affirmative Action so that the complainant may choose either to pursue informal resolution through that office or to bring a formal complaint. The Office of Affirmative Action is available to assist persons to whom complaints are brought in determining whether there is a potential policy violation and whether reporting pursuant to paragraph (d) below is required.

(c) When a complaint is brought informally, the person(s) charged in the complaint will not ordinarily be informed of the complaint without the consent of the ~~complainant~~ victim unless circumstances require (such as when there are multiple complaints against the same person or allegations that are particularly egregious). No disciplinary action can be taken against a person charged in an informal complaint, and there will be no record of the complaint in the person's employment ~~file~~ or student disciplinary file, unless the person is notified of the charges and given an opportunity to respond.

(d) Any academic or administrative officer of the University who becomes aware of specific and credible allegations of sexual harassment, whether through the report of a complainant (including a third party), ~~the report of a third party~~, or otherwise, shall promptly report the allegations to the Office of Affirmative Action (except for allegations against a student regarding conduct occurring in the residence halls, which shall be reported to the Office of the Vice President for Student Services) for assistance in evaluating the situation and determining an appropriate course of action, even if the ~~complainant-victim~~ has requested that no action be taken. The initial report may be made by telephone, but a written report also must be made using the Office of Affirmative Action Report of Informal Sexual Harassment Complaint form, which requires disclosure of the employment or student status of the ~~parties~~ alleged victim(s), the complainant(s) (if other than the alleged victim), and the person(s) charged, the department(s) with which those persons are affiliated, a summary of the allegations, and a description of the steps taken to resolve the complaint. If the ~~respondent~~ person charged is informed of the existence of the informal complaint, the names of the parties must be provided to the Office of Affirmative Action. If the ~~respondent-person charged~~ is not informed of the complaint, then the names of the parties shall not be provided to the Office of Affirmative Action.

(e) Whether or not the Office of Affirmative Action ~~can be~~ is consulted immediately, the academic or administrative officer shall take appropriate action, which may include those actions described in Section 9, to address the alleged behavior.

## **Section 5. INVESTIGATION OF FORMAL COMPLAINTS.**

(a) A formal complaint pursuant to this Policy must be brought to the Office of Affirmative Action, which will conduct an investigation. A formal complaint may be brought after an informal resolution was not successfully reached, or may be brought immediately without pursuing informal resolution.

(b) The purpose of the investigation is to establish whether there is a reasonable basis for believing that a violation of this Policy has occurred. In conducting the investigation, the Office of Affirmative Action may interview the victim, the complainant (if other than the victim), the respondent, and other persons believed to have pertinent factual knowledge, as well as review any relevant documentary evidence. At all times, the Office of Affirmative Action will take steps to ensure confidentiality to the extent possible.

(c) When a formal ~~investigation begins~~ complaint is brought, the respondent will be informed of the allegations, the identity of the complainant, and the facts surrounding the allegations. The investigation will afford the respondent an full opportunity to respond to the allegations and evidence provided by the complainant and/or victim, and to provide a statement of the facts as perceived by the respondent.

(d) At the conclusion of the investigation, the Office of Affirmative Action will issue a written finding which will summarize the evidence gathered and state whether or not there ~~are~~ is a reasonable ~~grounds to~~ basis for believing ing that a violation of this Policy has occurred. ~~All parties to the complaint~~ The alleged victim and the respondent will receive a copy of the written finding, which

is to remain confidential as defined by Section 11(~~bc~~) of this Policy. Third party complainants will be notified when the proceedings are concluded.

(e) If the Office of Affirmative Action finds a reasonable ~~grounds to~~ basis for believing that a violation of this Policy has occurred, the matter will be referred to the appropriate administrative official for further consideration as outlined in Section 6 below.

## **Section 6. PROCESS FOR FORMAL DISCIPLINARY ACTION.**

(a) The appropriate administrative official as defined in Subsection (b) of this Section will review the finding of the Office of Affirmative Action and will decide whether to pursue formal disciplinary action.

(b) The decision to initiate formal disciplinary action in cases in which:

- (i) a faculty member or other instructional personnel (except graduate assistants) is the respondent will be made by the Office of the Provost;
- (ii) a staff member is the respondent will be made by the office of the Vice President or Dean responsible for the unit employing the person charged;
- (iii) a student is the respondent will be made by the Office of the Vice President for Student Services and Dean of Students;
- (iv) a graduate assistant is the respondent will be made by the Office of the Dean of the Graduate College.

(c) The administrative official may (i) determine that the allegations are not warranted; (ii) reach a negotiated settlement of the complaint; or (iii) initiate formal disciplinary action.

(d) Violations of the Policy on Sexual Harassment may lead to disciplinary sanctions up to and including termination or separation from The University of Iowa.

## **Section 7. APPLICABLE PROCEDURES.**

Except as specifically modified by other provisions of this Policy, formal disciplinary action resulting from violations of this Policy by:

(a) faculty members will be governed by the Faculty Dispute Procedures (see Section III.29, *University Operations Manual*) and that portion of those procedures dealing with faculty ethics (Sec. III.29.7).

(b) staff members will be taken by the Vice President or Dean (or designee) responsible for the unit employing the respondent. Appeals of any formal disciplinary action against covered non-organized Professional and Scientific staff members are governed by Section III.28.4 of the *University Operations Manual* as applicable. Appeals of any formal disciplinary action against an Exempt Merit staff member are governed by Section III.28.1 of the *University Operations Manual*. Staff covered by a collective bargaining agreement should refer to the relevant contract for any contractual grievance procedure. Non-organized merit staff have a procedure available under Regents Merit System Rules;

(c) graduate assistants, when dismissal is sought, will be governed by the procedure for dismissal of graduate assistants (Sec. III.12.4, *University Operations Manual*). When disciplinary action other than dismissal is taken by the Dean of the Graduate College, a graduate assistant may appeal through any existing contractual grievance procedures;

(d) students will be governed by Judicial Procedure for Alleged Violations of the Code of Student Life. Both the Code of Student Life and the Judicial Procedure are published and distributed to students annually in the “Policies and Regulations Affecting Students.”

## **Section 8. ISOLATED BEHAVIOR.**

(a) ~~Members of the University community who engage in i~~Isolated behavior of the kind described in Section 2(b), which does not rise to the level of sexual harassment but which if repeated could ~~constitute sexual harassment~~rise to that level, demonstrates insensitivity that may warrant remedial measures. ~~When a~~Academic or administrative officers who become aware ~~that of~~ such behavior ~~has occurred~~ in their areas, ~~they~~ should ~~communicate to~~counsel those who have engaged in the behavior. Such counsel should include a clear statement that the behavior is not acceptable and should cease, and information about the potential consequences if such behavior persists, and ~~should a~~ recommendation, as appropriate, ~~that they to~~ undertake an educational program designed to help ~~the~~ person(s) understand the harm ~~they are caused~~ing by the behavior.

(b) If a person continues to engage in the conduct described in Subsection 8(a), he or she may be deemed to have engaged in sexual harassment.

(c) This section addresses isolated behavior that does not rise to the level of a violation of this Policy. However, it should be understood that a single incident can under certain circumstances constitute sexual harassment in violation of this Policy.

## **Section 9. PROTECTION OF VICTIMS, COMPLAINANTS, AND OTHERS.**

(a) ~~Complainants-Alleged victims~~ will be informed ~~fully~~ of relevant procedural steps taken during the investigation and any interim protective measures taken.

(b) Throughout the investigation and resolution of a complaint, steps will be taken to protect victims, complainants, witnesses, and others from harm caused by continuation of the alleged harassing behavior.

(c) Retaliation against victims, complainants, and/or witnesses who provide information during an investigation pursuant to this Policy is prohibited. All reasonable action will be taken to assure that victims, complainants, and/or witnesses will suffer no retaliation as the result of their activities with regard to the process.

(d) Steps that may be taken to protect victims, complainants, witnesses, and others from continued harassment and/or retaliation might include:

(i) lateral transfers of one or more of the parties in an employment setting and a comparable move if a classroom setting is involved, and

(ii) arrangements that academic and/or employment evaluations concerning the complainant or others be made by an appropriate individual other than the respondent.

(e) Any retaliation against [victims](#), complainants, or witnesses should be reported to the Office of Affirmative Action for further investigation. If retaliation occurs, it may result in disciplinary action against the person committing the retaliatory act(s).

(f) In extraordinary circumstances, the Provost, a Dean, a DEO, or any Vice President may, at any time during or after an investigation of a sexual harassment complaint, suspend or [partially](#) restrict from employment any employee accused of sexual harassment if the Provost, Dean, DEO, or Vice President finds that it is reasonably certain that (i) the alleged sexual harassment has occurred and (ii) serious and immediate harm will ensue if the person continues his or her employment. Similarly, if the respondent is a student, interim sanctions may be imposed pursuant to Section 10 of the Judicial Procedure for Alleged Violation of the Code of Student Life.

### **Section 10. PROTECTION OF THE RESPONDENT.**

(a) This Policy shall not be used to bring knowingly false or malicious charges. Bringing such a charge may subject the complaining party to remedial and/or disciplinary action up to and including termination or separation from the University.

(b) In the event the allegations are not substantiated, all reasonable steps will be taken to restore the reputation of the respondent if it was damaged by the proceeding.

### **Section 11. CONFIDENTIALITY.**

(a) In order to empower community members to voice concerns and bring complaints, the confidentiality of all parties will be protected to the greatest extent ~~that is legally~~ possible. However, legal obligations may require the University to take some action once it is made aware that sexual harassment may be occurring, even when the ~~complainant-victim~~ is reluctant to proceed. The Office of Affirmative Action will be consulted (see Section 4(d)) and information will be shared only with those individuals who need to know it to implement this Policy.

(b) The parties to a complaint ([victims, third party complainants, and respondents](#)) are expected to maintain confidentiality as well. Parties are not prohibited from discussing the situation with persons who make up their personal support network, such as family, friends, and counselors outside of the work or educational environment. However, the matter should not be discussed ~~with or disclosed to others~~ in the work or educational environment.

(c) Dissemination of documents relating to a complaint and/or investigation, other than as necessary to pursue an appeal, grievance, or other legal or administrative proceeding, is prohibited.

(d) ~~Failure~~ to maintain confidentiality [by a respondent](#) may be considered to be a form of retaliation in violation of Section 9(c) of this Policy. [Failure to maintain confidentiality by any party \(victim, third party complainant, or respondent\) may result in disciplinary action.](#)

## Division 3. Educational Programs

### Section 12. EDUCATION AS A KEY ELEMENT OF UNIVERSITY POLICY.

(a) Academic and administrative officers are responsible for knowing and understanding the contents of this Policy and the procedures for processing complaints brought to them pursuant to this Policy. The Office of Affirmative Action offers training courses for academic and administrative officers about their responsibilities under this Policy, and those individuals are strongly encouraged to attend such a course.

(b) Educational efforts are essential to the establishment of a campus milieu that is free of sexual harassment. There are at least four goals to be achieved through education: (a) ensuring that all victims (and potential victims) are aware of their rights; (b) notifying individuals of conduct that is proscribed; (c) informing administrators about the proper way to address complaints of violations of this Policy; and (d) helping educate the ~~insensitive~~ community about the problems this Policy addresses.

(c) To achieve the goals set forth in paragraph (b) above, the Office of Affirmative Action offers courses designed to educate the University community about sexual harassment prevention. The Office of Affirmative Action also offers courses designed to inform those whose behavior does not rise to the level of a violation of this Policy as defined in Section 2, but if repeated could rise to the level of a violation, of the problems they create by their insensitive conduct. Courses may be recommended for those described in Section 8 and may be an element in the resolution of a complaint. Courses and/or individual training also may be mandated for persons found to have violated this Policy.

### Section 13. PREPARATION AND DISSEMINATION OF INFORMATION.

(a) The Office of Affirmative Action is charged with distributing information about this Policy to all current members of the University community and to all those who join the community in the future. An annual notification from the Office of Affirmative Action is provided to all faculty and staff to remind them of the contents of this Policy. A copy of the Human Rights Policy will be included in student orientation materials, including those distributed to students in professional schools. In addition, information about that Policy will be made available continually at appropriate campus centers and offices.

~~(b) The Office of Affirmative Action offers courses for persons who are likely to receive complaints that this Policy has been violated, including, but not limited to, such persons as residence hall resident advisors, academic advisors, supervisors, DEO's, and faculty advisors. Academic departments are encouraged to provide training for graduate assistants and other instructional personnel with assistance from the Office of Affirmative Action.~~

~~(c) The Office of Affirmative Action offers courses designed to educate the University community about sexual harassment prevention. The Office of Affirmative Action also offers courses designed to inform those whose behavior does not rise to the level of a violation of this Policy as defined in~~



~~Section 2, but if repeated could rise to the level of a violation, of the problems they create by their insensitive conduct. The course may be recommended for those described in Section 8 and may be an element in the resolution of a complaint. It also may be mandated for persons found to have violated this Policy.~~

**Section 14. REVIEW OF POLICY**

This Policy will be reviewed within three years after the latest revisions are implemented and revised as appropriate. This Policy is subject to review at any other time deemed necessary by the President, the General Counsel, or the Director of Affirmative Action.

sh&cr.pol 9/86, 9/91, 7/93