

PART II. COMMUNITY POLICIES
DIVISION I HUMAN RIGHTS, AFFIRMATIVE ACTION, AND EQUAL
EMPLOYMENT OPPORTUNITY

(Written to conform to *Regents Procedural Guide* 3/74; amended 9/93; 10/95; 9/97)

CHAPTER 5: SEXUAL HARASSMENT COMPLAINT PROCEDURES

(12/91)

5.1 PREAMBLE.

- a. The University of Iowa's Policy on Sexual Harassment and Consensual Relationships, enacted in 1986, reflects the University's strong commitment to creating and maintaining an environment free of sexual harassment. The presence of sexual harassment in this community subverts the mission of the University and will not be tolerated.

- b. In furtherance of this commitment, the University recognizes the need to codify procedures governing sexual harassment complaints filed under the policy. The distribution of such procedures will ensure that those persons involved in sexual harassment complaints know what to expect from the complaint process. The University is particularly concerned that potential complainants know that they have recourse in this community.

- c. To these ends, the Office of Affirmative Action established University-wide procedural guidelines for the processing of sexual harassment complaints so that the person handling such complaints at the administrative level, as well as the parties to the complaint, are aware of the process. These procedures are based upon the University's sexual harassment policy.

5.2 SEXUAL HARASSMENT AND CONSENSUAL RELATIONSHIPS.

The University of Iowa believes that sexual harassment is reprehensible and it will not be tolerated. Furthermore, sexual harassment is a form of sex discrimination under Title VII of the Civil Rights Act of 1964 and Chapter 601A of the *Iowa Code*, and as such, is illegal under both federal and state law.

The University has written a policy prohibiting sexual harassment and vigorously enforces it. Persons who are accused of sexual harassment should thoroughly read and understand the policy. The University's Policy on Sexual Harassment and Consensual Relationships is set forth in [II-4](#) and in the *Code of Student Life*. Copies of the policy, as well as copies of these procedures, are available upon request from the University's Office of Affirmative Action.

5.3 PROHIBITED CONDUCT.

- a. Sexual Harassment Defined. The University's policy defines sexual harassment as unwelcome advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:
 - (1) Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or status in a course, program, or activity;

 - (2) Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or of creating an intimidating, hostile, or offensive environment for work or learning.

b. Examples of Sexual Harassment. Sexual harassment may take many forms and includes any sexual attention that is unwanted. The following types of conduct are given as examples of sexual harassment in the policy:

(1) Physical assault;

(2) Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;

(3) Direct propositions of a sexual nature;

(4) Subtle pressure for sexual activity, an element of which may be conduct such as repeated and unwanted staring;

(5) A pattern of conduct (not legitimately related to the subject matter of a course if one is involved) intended to discomfort or humiliate, or both, that includes one or more of the following:

(a) comments of a sexual nature; or

(b) sexually explicit statements, questions, jokes, or anecdotes;

(6) A pattern of conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that includes one or more of the following:

(a) unnecessary touching, patting, hugging, or brushing against a person's body;

(b) remarks of a sexual nature about a person's clothing or body; or

(c) remarks about sexual activity or speculations about previous sexual experience.

5.4 PARTIES.

Under The University of Iowa's Policy on Sexual Harassment and Consensual Relationships, any student, staff member, or faculty member may bring a sexual harassment complaint against any other member of the University community who is believed to have violated the policy.

5.5 PERSONS AUTHORIZED TO RECEIVE COMPLAINTS.

The University's sexual harassment policy provides that a complaint alleging a violation of the policy may be brought to any appropriate member of the University community, including:

a. any academic or administrative officer of the University;

b. any collegiate dean, director, supervisor, department head, ombudsperson, or adviser;

c. the following persons or organizations;

- (1) the Director of Affirmative Action;
- (2) the Vice President for Student Services and Dean of Students,
- (3) the University Ombudsperson;
- (4) the Associate Provost for Faculty;
- (5) the Associate Vice President/Director of Human Resources; and
- (6) departments or organizations like the Women's Resource and Action Center and the Rape Victim Advocacy Program.

All persons authorized to receive complaints are expected to participate in training related to the procedures to be used for handling sexual harassment complaints. This training is provided by the Office of Affirmative Action.

5.6 AVAILABLE OPTIONS.

A person wishing to make a sexual harassment complaint has the following options under the policy:

- a. Informal resolution of the complaint
 - (1) by the complainant directly with the accused party;
 - (2) with the assistance of the person to whom the complaint was initially brought; or
 - (3) with the assistance of any appropriate member of the University community as set forth above to whom the complainant wishes the complaint to be referred, including the Director of the Office of Affirmative Action; or
- b. Filing a formal complaint with the Office of Affirmative Action.
- c. The complainant should also be informed that a decision to proceed informally at this point does not preclude the filing of a formal complaint at some later point prior to the completion of the informal complaint process and that the filing of an informal complaint is not a prerequisite to a formal complaint. However, a complainant should not simultaneously maintain complaints arising from the same occurrence with more than one office.

5.7 PROCEDURES FOR INITIAL INTAKE OF COMPLAINTS.

- a. Discussion of relevant considerations. In addition to outlining for the complainant the options available under the sexual harassment policy, the person to whom the complaint is initially brought should also discuss with the complainant other relevant considerations such as:
 - (1) the details of the complaint process;

- (2) the issues involved in the complaint;
- (3) possible resolutions;
- (4) provisions in the policy for protection of the complainant's interests (e.g. confidentiality; need for truthfulness by both parties; keeping complainant fully informed of steps taken during the process; protection of complainant and witnesses against retaliatory action; accused party cannot be informed of the filing of an informal complaint without the consent of complainant); and
- (5) provisions in the policy for protection of the interests of the accused (e.g. confidentiality; need for truthfulness by both parties; right to be notified of existence of any formal complaint; opportunity to respond to the complainant's allegations).

The person to whom the complaint is brought should provide the complaining party with a copy of the sexual harassment policy and these procedures.

- b. Determination as to Further Action. Once all of the above information has been discussed with the complainant, the complainant may then determine whether to pursue the complaint and, if so, by what process.

5.8 INFORMAL COMPLAINTS.

- a. Referral. In the event the complainant wishes to pursue informal resolution of the complaint, he or she may do so either with the person to whom the complaint was initially brought or with another person authorized under the policy to receive such complaints and to whom the complainant wishes the complaint to be referred. The person selected by the complainant to process the complaint will follow the procedures set forth in the following subsection relating to processing informal complaints.

Similarly, if the complainant elects to file a formal complaint with the Office of Affirmative Action, or if the complainant wishes to convert an existing informal complaint to a formal complaint at any point prior to completion of the informal complaint process, the person to whom the complaint was initially brought will refer the complainant to the Office of Affirmative Action for that purpose. Any assistance the complainant may need in filing the complaint or in contacting the Office of Affirmative Action will be provided by the person making the referral.

- b. Procedures for Informal Complaints. If the complainant wishes to pursue informal resolution of the complaint, the following procedures are applicable:

- (1) Notice of Complaint to Office of Affirmative Action. Within seven work days of receiving an informal complaint, the person pursuing the complaint with the complainant will notify the Office of Affirmative Action in writing of the existence of the complaint and will provide a summary of the allegations. Situations in which the complainant has requested his or her name not be disclosed or no action be taken and those in which the complainant has not consented to informing the accused party of the action should be reported without disclosing information which would identify the parties. The information reported will be treated confidentially by the Office of Affirmative Action.

This information is required to be reported for data collection purposes and to assure compliance with the sexual harassment policy and with applicable federal and state law on sexual harassment. Additionally, the Office of Affirmative Action will use this information to monitor repeated complaints within the same department/unit or against the same individual, where appropriately identified, to assure that such claims are adequately handled.

(2) Notice to the Accused. In the context of an informal complaint, the sexual harassment policy provides that the accused party will not be informed of the complainant's action without the consent of the complainant. For purposes of documentation, this consent should be provided in writing. The complainant should of course be informed that no disciplinary action can be taken against the accused on the basis of an informal complaint of which the accused party has not been made aware.

(3) Inquiry/Investigation Into Circumstances of Complaint. The person handling the informal complaint should follow the procedures for investigation of formal complaints set forth below.

(4) Time Period for Investigating Complaint. Informal complaints should be concluded within 30 days of their inception. Where this is not reasonably possible, the person processing the complaint should notify the complainant in writing that conclusion of the complaint will be delayed and indicate the reasons for the delay.

(5) Notice of Conclusion of Investigation. Within seven work days of concluding the investigation of an informal complaint, the person handling the complaint will notify the Office of Affirmative Action in writing that the complaint has been concluded and of the resulting outcome.

(6) Possible Actions Upon Conclusion of Informal Investigation.

(a) Resolution of Complaint. The person handling the complaint will attempt to resolve it to the satisfaction of the parties involved.

(b) Where Resolution of Complaint is Not Possible. Where the person handling the complaint is unable to resolve it, the complainant should be advised of the option of filing a formal complaint based on the same occurrence with the Office of Affirmative Action and the existence of options outside the University that may be pursued, i.e., filing with the federal Equal Employment Opportunity Commission, the Iowa Civil Rights Commission, the federal Department of Education (Office of Civil Rights), etc.

5.9 FORMAL COMPLAINTS.

a. Referral to the Office of Affirmative Action. Either when the complainant elects to file a formal complaint, or at any point prior to completion of the informal complaint process when a complainant elects to convert an existing informal complaint to a formal complaint, the complainant may invoke the procedures used in the formal context. If this occurs, the person handling the complaint should refer the complainant to the Office of Affirmative Action for filing of the formal complaint. Any assistance the complainant

may need in contacting the Office of Affirmative Action or in filing the complaint should be provided by the person making the referral.

b. Procedures for Formal Complaints.

(1) Filing With the Office of Affirmative Action. The sexual harassment policy provides that formal complaints of sexual harassment will be filed in writing with the Office of Affirmative Action.

(2) Determination of Method of Formal Investigation. The Office of Affirmative Action will then consult with the appropriate administrative officer to determine the method by which the formal investigation will be conducted. The Office of Affirmative Action will be responsible for the investigation with the assistance of the department or unit involved and will keep the administrative officer informed as to its progress.

(3) Notice to the Accused. At the commencement of the investigation of a formal complaint, the accused party will be informed of the identity of the complainant, of the allegations of the complaint, and of the facts surrounding the allegations of sexual harassment, as required by [II-4.3f\(1\)](#).

(4) Investigation of Formal Complaint.

(a) Purpose of Investigation. The purpose of the investigation is to establish whether there is a reasonable basis for believing that the alleged violation(s) of the sexual harassment policy has/have occurred.

(b) Authorization to Investigate. Because the information provided by the complainant is confidential, it is necessary to obtain the complainant's written authorization to discuss the information with others during the course of the investigation. The written documentation of the complainant's consent to investigate should specify that the investigator is authorized to discuss the information provided with other persons having pertinent factual knowledge of the circumstances of the complaint and authorized to collect and examine any and all records and other documentation relative to the complaint.

(c) Persons to Be Interviewed. The person conducting the investigation should interview the complainant, the accused, and any other persons believed to have pertinent factual knowledge of the allegations. The sexual harassment policy specifically provides that the accused be afforded a full opportunity to respond to the allegations. Throughout the investigation and at all other times, the person conducting the investigation will take steps to preserve the confidentiality of all persons involved.

(d) Matters to Be Investigated Include:

(i) Whether the specific conduct constitutes sexual harassment, including the type(s) of conduct; frequency of occurrence; date(s) on which or time period over which the conduct has occurred; location of alleged occurrence(s); and all factual circumstances upon which the complaint is based.

- (ii) The specific relationship of the accused party to the complainant (e.g., professor-student, supervisor-employee, etc.).
- (iii) The effect of the accused party's conduct on the complainant, including any consequences that may be attributed to the conduct.
- (iv) Whether the accused party is aware of the complainant's concern.
- (v) Whether the department head or supervisor is aware of the complainant's concern, and if so, how he or she became aware of the concern.
- (vi) The names, addresses, and telephone numbers of all persons believed to have pertinent factual knowledge of the circumstances surrounding the complaint.
- (vii) Whether any prior steps were taken to resolve the complaint.
- (viii) Whether there are any additional resources that may be helpful to resolve the complaint.
- (ix) Whether the complainant is receiving appropriate emotional support and/or services.

(5) Possible Outcomes of Investigation.

- (a) The possible outcomes of the investigation are:
 - (i) a finding that there is a reasonable basis for believing that the alleged violation occurred;
 - (ii) a finding that there is no reasonable basis for believing that the alleged violation occurred; or
 - (iii) a negotiated settlement of the complaint.
- (b) Where the Office of Affirmative Action has determined that the allegations are founded, there are two further possibilities:
 - (i) a negotiated settlement of the complaint, or
 - (ii) where a negotiated settlement is not possible, institution of formal action/sanctions.

(6) Time Period for Investigating Complaint. Investigations of formal complaints should be concluded within 45 days of their inception. Where it is not reasonably possible to conclude the complaint within that amount of time, the Office of Affirmative Action will notify the complainant in writing that conclusion of the complaint will be delayed and indicate the reasons for the delay.

(7) Written Report of Findings. Upon conclusion of the investigation of a formal complaint, the Office of Affirmative Action will prepare a written summary of the findings. This report will then be provided to the appropriate administrative official.

(8) Notice to Parties. At the conclusion of the investigation, the Office of Affirmative Action will promptly inform both the complainant and the accused party of the outcome and of the facts developed relevant to the complaint. In the event the investigation has revealed no reasonable basis for believing sexual harassment has occurred under the policy, the investigator will also advise the complainant of the existence of options outside the University that may be pursued.

(9) Formal sanctions.

(a) Decision to Impose Sanctions. If after reviewing the report of the Office of Affirmative Action, the appropriate administrative official concludes that there is a reasonable basis for believing that the alleged violation of the policy has occurred, and if a negotiated settlement of the complaint has not been achieved, formal sanctions will be imposed.

(b) Persons Responsible for Decision. The decision to impose formal sanctions will be made by one of the following persons:

(i) in cases involving a faculty member, graduate assistant, or other instructional personnel as the charged party, by the chief academic officer of the University (currently the Provost or that person's designee);

(ii) in cases involving a staff person as the charged party, by the vice president or provost responsible for the unit employing the charged party or by that person's designee, following consultation with the Vice President for Finance and University Services or that person's designee; and

(iii) in cases involving a student, by the chief administrative officer of the University in charge of student affairs (currently the Vice President for Student Services and Dean of Students or that person's designee).

(c) Sanctions. Where an allegation of sexual harassment is founded, appropriate corrective measures may range from verbal reprimand up to and including separation of the offending party from the University, in accordance with established University procedures.

(d) Governing Provisions. Violations of the sexual harassment policy are governed by the following procedures:

(i) in cases involving faculty members, by the General Faculty Dispute Procedures ([III-29](#)) and that portion of those procedures dealing with faculty ethics ([III-29.7](#));

(ii) in cases involving graduate assistants, by the procedure for dismissal of graduate assistants ([III-12.4](#)); and

(iii) in cases involving staff members, appeals from any formal disciplinary action taken are governed by the following:

(A) for professional and scientific staff ([III-28.4](#));

(B) for organized merit staff, by procedures available under the Regents' Merit System Rules; and

(C) for nonorganized merit staff, by procedures available under the Regents' Merit Rules.

(iv) in cases involving students, by the Judicial Procedure for Alleged Violations of the Code of Student Life (published in *Policies and Regulations Affecting Students*).

(10) Final Report to the Office of Affirmative Action. Within seven work days of the conclusion of any formal action, a written report summarizing any such action taken and the outcome of any appeal therefrom will be submitted to the Office of Affirmative Action by the administrative official responsible for the decision on formal action. This written report is used by the Office of Affirmative Action for data collection and compliance purposes only.

(11) Complainant's Options Upon Unfavorable Resolution. Where the complainant is not satisfied with the outcome of the formal action process, the administrative official responsible for the decision on any formal action taken should inform the complainant of the existence of procedures available in [III-31](#) and options outside the University that may be pursued.

5.10 PRESENCE OF SUPPORT PERSONS.

If the complainant so desires, he or she may be accompanied at the initial interview (and subsequently as appropriate) by a friend, family member, or other individual of the complainant's choice whose presence is necessary to provide emotional support and/or clarification of the facts related to the complaint.

5.11 REVISIONS.

These procedures are subject to revision by the Office of Affirmative Action as necessary or desirable in view of experience, changes in the law, or University policy.

5.12 RIGHTS OF THE ACCUSED.

At the commencement of the investigation of a formal complaint, the accused will be informed of the identity of the complainant, the allegations of the complaint, and the facts surrounding the allegations. The accused will be given an opportunity to respond fully to the allegations and will be notified of the outcome of the investigation.

5.13 CONFIDENTIALITY.

The Office of Affirmative Action treats as confidential all information received in connection with the filing, investigation, and resolution of complaints. It is anticipated and expected that the parties to a particular complaint will observe the same standard of strict confidentiality. It should be emphasized that this practice is in the best interests of all parties to the complaint. Failure to respect confidentiality may be regarded as retaliation.