

## **SUMMARY OF PROPOSED REVISIONS TO THE POLICIES ON SEXUAL HARASSMENT AND CONSENSUAL RELATIONSHIPS**

*This summary is intended to highlight the major revisions to the two policies named above. The overall goals were to strengthen and clarify the policies, as well as to update them to comply with recent legal and regulatory developments.*

### Separation of the two Policies

The existing Policy on Sexual Harassment and Consensual Relationships has been separated into two distinct policies. This change has been made to reflect that the principles underlying the two policies are distinct. The prohibition of consensual relationships in the instructional context is based on the avoidance of conflicts of interest which are inherent in such relationships. While consensual relationships may lead to claims of sexual harassment, the prohibition of consensual relationships is not based on the prohibition of sexual harassment.

### Proposed Revisions to the Policy on Sexual Harassment

The policy as revised adopts the definition of sexual harassment that is used in the Code of Iowa. (Sec. 2(a)). The Committee feels this language is more precise in defining what type of conduct constitutes sexual harassment. In addition, the revised definition includes conduct that occurs in on-campus living environments, and during on- or off-campus University sponsored activities. A statement regarding the First Amendment has been added to make clear that protected speech does not violate this policy. In general, the section defining prohibited conduct (Sec. 2) has been strengthened and clarified.

The revised policy allows a complaint to be brought by third parties or by the University itself, so that situations may be reported and addressed even when the alleged victim is reluctant or unwilling to bring a complaint. However, the policy sets a standard that third party complaints must state “specific and credible” allegations to warrant an investigation. (Sec. 3(a)). Similarly, an alleged victim’s consent is no longer required for an investigation to be undertaken. (Sec. 3(b)). These changes were made to allow the University to take appropriate action when necessary to protect the alleged victim and others, and to guard against institutional liability for failing to act (based on a victim’s wishes) once the institution is on notice of harassing behavior.

Any “academic or administrative officer” of the University who becomes aware of sexual harassment will have a duty to report the situation to the Office of Affirmative Action, to enhance consistency in handling complaints. (Sec. 4(d)). The names of the individuals involved in an informal complaint will be disclosed to the Office of Affirmative Action if the person charged in the complaint has been informed of the complaint. The names will not be disclosed to the Office of Affirmative Action if the person charged has not been informed. This new provision is intended to resolve concerns about the potential existence of records in the Office of Affirmative Action naming an individual who is unaware that such a record exists. The policy also now lists a number of offices where a victim may seek confidential consultation regarding a situation without triggering a report. (Sec. 3(c)).

A new section regarding confidentiality has been added to make clear what parties may expect of the University, and what the University expects of the parties, regarding confidentiality of a complaint, investigation, and finding. (Sec. 11).

#### Proposed Revisions to the Policy on Consensual Relationships

In general, the policy language was rewritten to provide both strength and clarity. The Rationale was rewritten with the goal of clarifying that the principle underlying this Policy is the avoidance of a conflict of interest which is inherent in such relationships. (Sec. I). References to “amorous” relationships have been amended to “romantic and/or sexual” relationships throughout the Policy to clarify what types of relationships are covered. The distinction between relationships that are prohibited (Sec. II) and those that are discouraged (Sec. III) also is clarified. In addition, the procedure for managing discouraged relationships that do arise is specified. (Sec. III). A list of examples has been added to illustrate the application of the Policy in various situations. (Sec. IV).