

Chapter 4 – Sexual Harassment and Sexual Misconduct

(President 7/28/86; 12/91; 7/1/02; 3/21/05; 12/05; 12/08; 4/09; 11/09; 8/10; 1/18/11; 8/13; 10/1/14; 7/15; 7/1/17; 6/18; 9/21/18; 1/20; 8/14/20; 1/29/21; 7/8/21; 8/13/21)

Effective **August 14, 2020**, this policy has been renamed and substantively revised. It replaces former policies II-4 Sexual Harassment and IV-2 Sexual Misconduct Involving Students.

Effective **January 29, July 8, and August 13, 2021**, this policy has undergone additional revisions. For individual changes, see the redlined versions of [II-4.1](#), [II-4.14](#), [II-4.17](#), and [II-4.23](#). Also effective **August 13, 2021**, this policy has been retitled to reflect the completion of the interim period.

If you or someone you know may be a victim of sexual assault, sexual harassment, dating/domestic violence, stalking, or any other behaviors prohibited under this policy,^{*} you are strongly encouraged to seek assistance and support. Assistance is available 24 hours a day, 7 days a week, from:

Rape Victim Advocacy Program (RVAP) —
confidential, certified victim advocacy services, 319-335-6000

Domestic Violence Intervention Program (DVIP) —
confidential, certified victim advocacy services, 319-351-1043 or 800-373-1043

Emergency Department, University of Iowa Hospitals & Clinics —
confidential medical services, 319-356-2233

University of Iowa Department of Public Safety —
law enforcement services, 319-335-5022, or 911 from any campus phone

Additional resources, including information about culturally specific resources, can be found at <https://osmrc.uiowa.edu/victim-resources/confidential-support>.

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- [4.1 Glossary](#)
- [4.2 Rationale for Policy](#)
- [4.3 Applicable Scope](#)

- [4.4 Title IX Coordinator](#)
- [4.5 Independence and Conflict of Interest](#)
- [4.6 Administrative Contact Information](#)
- [4.7 Notice/Complaints of Sexual Harassment, Sexual Misconduct, and/or Related Retaliation](#)
- [4.8 Supportive Measures](#)
- [4.9 Emergency Removal](#)
- [4.10 Promptness](#)
- [4.11 Privacy](#)
- [4.12 Jurisdiction of the University of Iowa](#)
- [4.13 Time Limits on Reporting](#)
- [4.14 Prohibited Conduct](#)
- [4.15 Retaliation](#)
- [4.16 Mandated Reporting](#)
- [4.17 When a Complainant Does Not Wish to Proceed](#)
- [4.18 Federal Timely Warning Obligations](#)
- [4.19 False Allegations and Evidence](#)
- [4.20 Amnesty for Complainants and Witnesses](#)
- [4.21 Federal Statistical Reporting Obligations](#)
- [4.22 Education Programs](#)
- [4.23 Procedure for Alleged Violations of the Policy on Sexual Harassment and Sexual Misconduct](#)

4.1 Glossary

(Amended 1/29/21)

Effective January 29, 2021, this policy has been revised. For individual changes, see the [redlined version](#).

- a. “Academic or administrative officers (AOs)” are mandated reporters who are required to report actual or suspected sexual harassment (including stalking, dating violence, and domestic violence), sexual misconduct, or related retaliation to the Office of the Sexual Misconduct Response Coordinator within 2 business days. For a list of who is an AAO, see [II-4.16a](#) below.
- b. “Adaptable resolution” is a voluntary informal process that may encompass a broad range of conflict resolution strategies, including but not limited to shuttle diplomacy, arbitration, mediation, and restorative justice. Parties may engage in an adaptable resolution before, during, or after an investigation is completed into the alleged conduct, but prior to a determination of responsibility in either Process A or Process B. Adaptable resolution may not be appropriate in all

circumstances. During the interim period of this policy, adaptable resolution will be limited to shuttle diplomacy.

- c. “Adjudicator” means the decision maker who makes findings and the determination of responsibility in the context of a formal grievance process that requires a live hearing under this policy and Process A as defined in the associated procedures.
- d. “Advisor” is a person who provides support and/or advice to a party during the resolution process. The University of Iowa has three types of advisors: support advisor, hearing advisor, and legal advisor. See [II-4.23e](#) below in the Procedure for Alleged Violations of the Policy on Sexual Harassment and Sexual Misconduct for more description.
- e. “Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment, sexual misconduct, or related retaliation under this policy.
- f. “Complaint (formal)” means a document filed/signed by a complainant or signed by the Title IX Coordinator alleging sexual harassment, sexual misconduct, or related retaliation under this policy against a respondent and requesting that the university investigate the allegation.
- g. “Confidential resource” means a person from a designated organization or university office who is not an academic or administrative officer (mandated reporter) of notice of sexual harassment, sexual misconduct, and/or related retaliation (irrespective of Clery Act Campus Security Authority status). Designated confidential resources are listed in [II-14.16c\(1\)](#).
- h. “Day” means a business day when the University of Iowa is in normal operation.
- i. “Education program or activity” means locations, events, or circumstances where the University of Iowa exercises substantial control over both the respondent and the context in which the sexual harassment or sexual misconduct occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University of Iowa.
- j. “Employee” is a person in an employment relationship with the University of Iowa or any of its units, including full- and part-time faculty and staff members, but not including persons holding only complimentary appointments. Emeritus status does not establish an employment relationship. Volunteers are not employees.
- k. “Determination of responsibility”: A conclusion by a preponderance-of-the-evidence standard that the alleged conduct occurred and whether it did or did not violate policy.

- l. "Finding" is a conclusion by a preponderance-of-the-evidence standard that the conduct did or did not occur as alleged.
- m. "Formal grievance process" means Process A and Process B, methods of formal resolution designated by the University of Iowa to address conduct that falls within this policy.²
- n. "Grievance process pool" includes any investigators, hearing officers, appeal officers, and advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- o. "Hearing facilitator" may attend to logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate.
- p. "Investigator" means the person or persons who in the context of a formal grievance process are tasked with gathering information, assessing relevance and synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence. In complaints resolved through Process B, investigators also make findings and the determination of responsibility.
- q. "Notice" means that an employee, student, or third party informs the Title IX Coordinator or academic or administrator officer of the alleged occurrence of harassing, misconduct, and/or retaliatory conduct.
- r. "Parties" include the complainant(s) and respondent(s), collectively.
- s. "Process A" means the formal grievance process that includes an investigation and live hearing detailed below in II-4.23 Procedure for Alleged Violations of the Sexual Harassment and Sexual Misconduct Policy.
- t. "Process B" means the formal grievance process that does not include a live hearing but does include findings and a determination of responsibility made by an investigator detailed below in II-4.23 Procedure for Alleged Violations of the Sexual Harassment and Sexual Misconduct Policy.
- u. "Reasonable-person standard" means how a person under similar circumstances would be expected to react. A reasonable person is always a person who is both sober and exercising sound judgment.

- v. “Remedies” are post-finding actions directed to the complainant and/or the community to address safety, prevent recurrence, and restore access to the University of Iowa’s educational program, activities, and workplace.
- w. “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or sexual misconduct; or of retaliation for engaging in a protected activity.
- x. “Resolution” means the result of an adaptable resolution or formal grievance process.
- y. “Sanction” means a consequence imposed by the university on a respondent who is found to have violated this policy.
- z. “Sanctioning administrator” is the person who is responsible for determining and implementing corrective measures and sanctions and who may institute formal disciplinary action, consistent with university procedures.
- aa. “Sexual harassment” is the category of offenses compliant with the U.S. Department of Education Title IX Regulation 106.30 including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See [II-4.14](#) Prohibited Conduct for greater detail.
- bb. “Sexual misconduct” is a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation.
- cc. “Student” is any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit-bearing course work, and who maintains an ongoing relationship with the University of Iowa.
- dd. “Title IX Coordinator”³ is the University of Iowa–designated official to ensure compliance with Title IX and the university’s Title IX program. References to the Title IX Coordinator throughout this policy may also encompass a designee of the Title IX Coordinator for specific tasks.
- ee. “Title IX team” refers to the Title IX Coordinator, deputy coordinators, or other designee, and any member of the grievance process pool.
- ff. “The University of Iowa” means a postsecondary education program that is a recipient of federal funding.

Notes

1. "Mandated reporters" in this policy are not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy on Sexual Harassment and Sexual Misconduct.
2. The formal grievance process complies with requirements of 34 CFR 106.45.
3. Anywhere this policy indicates "Title IX Coordinator," the university may substitute a trained designee.

4.2 Rationale for Policy

Members of the university community have the right to be free from all forms of sexual harassment and sexual misconduct, which subvert the university's mission and threaten the careers, educational experience, and the well-being of students, faculty, staff, and visitors. All members of the university community are expected to conduct themselves in a manner that maintains an environment free from sexual harassment and sexual misconduct.

The university community seeks to eliminate sexual harassment and sexual misconduct through education and accountability. Everyone is encouraged to report concerns or make complaints, including third parties, when the respondent is a member of the university community or a visitor. The university is committed to stopping sexual harassment and sexual misconduct, preventing its recurrence, eliminating any hostile environment, and remedying its discriminatory effects. In accordance with regulatory requirements and institutional values, this policy defines expectations for the university community and establishes mechanisms for determining when those expectations have been violated.

4.3 Applicable Scope

The core purpose of this policy is the prohibition of all forms of sexual harassment, sexual misconduct, and related retaliation. When an alleged violation of this policy is reported and a formal complaint filed, the allegations are subject to resolution using University of Iowa's Process A, Process B, or adaptable resolution as determined by the Title IX Coordinator, and as detailed below. When the respondent is a member of the University of Iowa community, a grievance process may be available regardless of the status of the complainant, who may or may not be a member of the University of Iowa community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The Procedure for Alleged Violations of the Policy on Sexual Harassment and Sexual Misconduct ([II-4.23](#) below) may be applied to

incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

4.4 Title IX Coordinator

The Title IX Coordinator oversees implementation of University of Iowa sexual harassment and sexual misconduct policy and procedure. The Title IX Coordinator has the primary responsibility for coordinating the university's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment, sexual misconduct, and retaliation prohibited under this policy. No employee is authorized to resolve reports or complaints without the involvement of the Title IX Coordinator.

4.5 Independence and Conflict of Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against complainants and/or respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the university President (319-335-3549; president@uiowa.edu). Concerns of bias or a potential conflict of interest by any other Title IX team member should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to the university President (319-335-3549; president@uiowa.edu) or designee. Reports of misconduct committed by any other Title IX team member should be reported to the Title IX Coordinator.

4.6 Administrative Contact Information

- a. Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

- 1. Monique DiCarlo, Title IX Coordinator
Office of the Sexual Misconduct and Title IX Coordinator
455 Van Allen Hall
Phone: 319-335-6200

Email: osmrc@uiowa.edu

Web: <https://osmrc.uiowa.edu>

2. Jennifer Modestou, Deputy Title IX Coordinator and
Director, Office of Equal Opportunity and Diversity
202 Jessup Hall
Phone: 319-335-0705
Email: diversity@uiowa.edu

3. Sara Feldmann, Deputy Title IX Coordinator and
Assistant Director, Office of the Sexual Misconduct Response Coordinator
455 Van Allen Hall
Phone: 319-335-6200
Email: osmrc@uiowa.edu

4. Lyla Clerry, Deputy Title IX Coordinator and
Associate Athletic Director for Athletic Compliance
S240 Carver Hawkeye Arena
Phone: 319-335-9598
Email: lyla-clerry@uiowa.edu

- b. The University of Iowa has also classified academic and administrative officers as mandated reporters of any knowledge they have that a member of the community is experiencing sexual harassment, sexual misconduct, and/or related retaliation. The subchapter below on mandated reporting (see [II-4.16](#)) details which employees have this responsibility and their duties, accordingly.

In addition to filing a complaint with the University of Iowa, individuals who believe they may have been the subject of discrimination prohibited by state and/or federal law(s) may contact one or more of the following agencies for advice, assistance, and explanation of filing deadlines.

1. Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline: 800-421-3481

Fax: 202-453-6012

TDD: 877-521-2172

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

2. Iowa Civil Rights Commission
Grimes State Office Building
400 E. 14th Street
Des Moines, IA 50319-0201
Phone: 515-281-4121, 800-457-4416
Fax: 515-242-5840
Email: icrc@iowa.gov
Web: <https://icrc.iowa.gov/>

- c. For external complaints involving employees, contact the [Equal Employment Opportunity Commission](#) (EEOC).

4.7 Notice/Complaints of Sexual Harassment, Sexual Misconduct, and/or Related Retaliation

- a. Notice or complaints of sexual harassment, sexual misconduct, and/or related retaliation may be made using any of the following options:
 1. File a complaint with, or give verbal notice to, the Title IX Coordinator at the Office of the Sexual Misconduct Response Coordinator (319-335-6200; osmrc@uiowa.edu). Such a report may be made at any time (including during nonbusiness hours) by using the telephone number or email address, or by mail to the office address listed above in [II-4.6a\(1\)](#) for the Title IX Coordinator at the Office of the Sexual Misconduct Response Coordinator.
 2. Report online, using the reporting form posted at <https://osmrc.uiowa.edu/report-problem-0>. Anonymous reports are accepted but can give rise to a need to investigate. The University of Iowa tries to provide supportive measures to all complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as the University of Iowa respects complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the complainant is

largely in control and should not fear a loss of privacy by making a report that allows the University of Iowa to discuss and/or provide supportive measures.

3. Any person may make a report that a student, employee, or visitor has experienced or committed sexual harassment, sexual misconduct, or related retaliation by contacting the Office of the Sexual Misconduct Response Coordinator, or any academic or administrative officer of the university.
- b. A formal complaint means a document filed/signed by the complainant or signed by the Title IX Coordinator alleging a policy violation by a respondent and requesting that the University of Iowa investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in [II-4.6a\(1\)](#) above, or as described in this subchapter. As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University of Iowa) that contains the complainant’s physical or digital signature, or otherwise reliably indicates that the complainant is the person filing the complaint.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the complainant to ensure that it is filed correctly.

- c. Making a report to law enforcement.
 1. **In an emergency:** Call 911 from wherever you are, and a law enforcement officer will respond to assist you.
 2. In nonemergency situations: Criminal sexual harassment or sexual misconduct, including sexual assault, dating/domestic violence, and stalking may be reported to the law enforcement agency that has jurisdiction over the location where the assault or abuse occurred. Victim advocates have special training in working with law enforcement. The advocates at RVAP (24-hour crisis line, 319-335-6000) and other agencies (<https://osmrc.uiowa.edu/victim-resources/confidential-support>) can provide accompaniment to meetings with law enforcement officials.

4.8 Supportive Measures

- a. The University of Iowa will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment, sexual misconduct, and/or related retaliation.

Supportive measures are nondisciplinary, nonpunitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the University of Iowa's education program, activity, or workplace, including measures designed to protect the safety of all parties or the University of Iowa's educational environment, and/or deter sexual harassment, sexual misconduct, and/or related retaliation.

- b. The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the University of Iowa will inform the complainant, in writing, that they may file a formal complaint with the University of Iowa either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The Title IX Coordinator will work with the complainant's or respondent's Senior Human Resources Leader or the Associate Dean for Faculty when implementing support measures related to the workplace or when the alleged conduct involves a nexus to the workplace.

- c. Subject to applicable laws and court orders, the University of Iowa will maintain the privacy of the supportive measures, provided that privacy does not impair the University of Iowa's ability to provide the supportive measures. The University of Iowa will act to ensure as minimal an academic impact on the parties as possible and provide flexibility within the workplace when it can reasonably do so. The University of Iowa will implement measures in a way that does not unreasonably burden the other party.
- d. Supportive measures may include, but are not limited to:
 - 1. One-on-one coaching;
 - 2. Referral to counseling, medical, and/or other health care services;
 - 3. Referral to community-based service providers;
 - 4. Visa and immigration assistance;

5. Student financial aid counseling;
 6. Education to the community or community subgroup(s);
 7. Altering campus housing assignment(s);
 8. Altering work arrangements for employees or student-employees;
 9. Providing parking or transportation accommodations;
 10. Implementing contact limitations (no-contact directives) between the parties;
 11. Academic extensions of deadlines, or other course-/program-related adjustments;
 12. Crime alerts;
 13. Class schedule modifications, withdrawals, or leaves of absence;
 14. Increased security and monitoring of certain areas of the campus;
 15. Any other actions deemed appropriate by the Title IX Coordinator.
- e. Violations of no-contact directives will be referred to appropriate student or employee conduct processes for enforcement.
- f. Individuals who have experienced a recent sexual assault are strongly encouraged to visit a hospital or clinic to assess and address their medical needs. The exam can assess for injuries and provide necessary medical advice and medication for concerns regarding pregnancy and sexually transmitted infections (STI). A Sexual Assault Nurse Examiner is available at both Iowa City hospitals to perform an evidentiary examination. Receiving an evidentiary examination does not mean that a victim must make a complaint to the university or to law enforcement. Rather, the examination serves to preserve evidence in the event that a victim may wish to make a complaint in the future.

A sexual assault evidentiary exam is fully covered and paid for by the State of Iowa and will not be submitted for insurance purposes.

To secure medical assistance and/or an evidentiary exam, visit:

University of Iowa Hospitals & Clinics
Emergency Department (open 24 hours)
200 Hawkins Drive
Roy Carver Pavilion, Level 1
Iowa City, Iowa 52242
Emergency Medicine phone: 319-356-2233
UIHC Nurseline (operated 24 hours): 319-384-8442

4.9 Emergency Removal

The University of Iowa can act to remove a respondent entirely or partially from its education program, activities, or workplace on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student, employee, or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the [Threat Assessment Program](#) (see also [VI-32](#)), using its standard objective violence risk assessment procedures. Paid administrative leave does not constitute emergency removal and does not require an individualized safety and risk analysis.

In all cases in which an emergency removal is imposed, the student, the employee, or two representatives from a student organization will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A complainant and their advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions.

A respondent may be accompanied by their advisor when meeting with the Title IX Coordinator for this meeting. The respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The University of Iowa will implement the least restrictive emergency actions practical in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall; temporarily reassigning an employee; restricting a student's or an employee's access to or use of facilities or equipment; allowing a student to withdraw or take grades of incomplete without financial penalty; authorizing an administrative leave; and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative course work options may be pursued to ensure as minimal an academic impact as possible on the parties.

4.10 Promptness

All allegations are acted upon promptly by the University of Iowa once it has received notice or a formal complaint. The University of Iowa will avoid all undue delays within its control.

Any time the general time frames for resolution outlined in University of Iowa procedures will be delayed, the University of Iowa will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

4.11 Privacy

Every effort is made by the University of Iowa to preserve the privacy of reports. The University of Iowa will not share the identity of any individual who has made a report or complaint of sexual harassment, sexual misconduct, or related retaliation; any complainant; any individual who has been reported to be the perpetrator of sexual harassment, sexual misconduct, or related retaliation; any respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act ([FERPA](#)), 20 USC 1232g; FERPA regulations, 34 CFR 99; or as required by law, court order, or legal process; or to carry out the purposes of 34 CFR 106, including the conducting of any investigation, hearing, grievance, or resolution proceeding arising under University of Iowa policies and procedures.

The University of Iowa reserves the right to determine which University of Iowa officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who have a business need to know will typically be told about the complaint; they may include, but are not limited to: the [Office of the Sexual Misconduct Response Coordinator](#), the [Office of Equal Opportunity and Diversity](#), the [Office of Student Accountability](#), Senior Human Resources Leader or Associate Dean for Faculty, the [Office of the Executive Vice President and Provost](#), [University Human Resources](#), the departmental executive officer, [Department of Public Safety](#), and the [Threat Assessment Program](#). Information will be shared as necessary with response coordinators, investigators, adjudicators, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

Confidentiality and mandated reporting are addressed more specifically below (see [II-4.16](#)).

Note

1. For the purpose of this policy, "privacy" and "confidentiality" have distinct meanings. "Privacy" means that information related to a complaint will be shared with a limited number of University of Iowa employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the University of Iowa's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), as outlined in the University of Iowa's FERPA policy. The privacy of employee records will be protected in accordance with the law and university policies. "Confidentiality" exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, certified victim advocacy, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, victim advocates, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The University of Iowa has designated individuals who have the ability to have privileged communications as confidential resources. For more information about confidential resources, see [II-4.16c\(1\)](#). When information is shared by a complainant with a confidential resource, the confidential resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: 1) the individual gives written consent for its disclosure; 2) there is a concern that the individual will likely cause serious physical harm to self or others; or 3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by confidential resources for statistical tracking purposes as required by the federal Clergy Act. Other information may be shared as required by law.

4.12 Jurisdiction of the University of Iowa

- a. This policy applies to the education program and activities of the University of Iowa, to conduct that takes place on the campus or on property owned or controlled by the University of Iowa, at University of Iowa–sponsored events, or in buildings owned or controlled by University of Iowa’s recognized student organizations. The respondent must be a member of the University of Iowa’s community, including patients, visitors, vendors, and contractors, in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the University of Iowa’s educational program, activities, or workplace. The University of Iowa may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial University of Iowa interest.

- b. Regardless of where the conduct occurred, the University of Iowa will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial University of Iowa interest includes:
 - 1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
 - 2. Any situation in which it is determined that the respondent poses an immediate threat to the physical health or safety of any student or other individual;
 - 3. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
 - 4. Any situation that is detrimental to the educational interests or mission of the University of Iowa.
- c. If the respondent is unknown or is not a member of the University of Iowa community, the Title IX Coordinator will assist the complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the respondent is not a member of the University of Iowa's community, supportive measures, remedies, and resources may be accessible to the complainant by contacting the Title IX Coordinator or a confidential advocate (<https://osmrc.uiowa.edu/victim-resources/confidential-support>).

- d. All vendors serving the University of Iowa through third-party contracts are subject to the policies and procedures of their employers and to these policies and procedures to which their employer has agreed to be bound by their contracts.
- e. When the respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist a student or employee complainant who experiences sexual harassment, sexual misconduct, or related retaliation in an externship/internship or other environment external to the University of Iowa where sexual harassment or sexual misconduct policies and procedures of the facilitating or host organization may give recourse to the complainant.

4.13 Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the respondent is no longer subject to the University of Iowa's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in adaptable resolution or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the university will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

4.14 Prohibited Conduct

(Amended 1/29/21; 7/8/21; 8/13/21)

Effective **January 29, July 8, and August 13, 2021**, this policy has been revised. For individual changes, see [the redlined version](#).

4.14(1) Relevant Terms and Definitions

The following terms and definitions are relevant to understanding prohibited conduct in this section.

- a. "Consent." Consent is knowing, voluntary, and clear permission by word or unambiguous action to engage in sexual activity.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably communicated. If there is confusion as to whether anyone has consented or continues to consent to sexual activity, the participants must stop the activity until each consents to it.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and relationship between the parties.

Consent in relationships must also be considered in context. When parties consent to BDSM or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force,

violence, or even saying “no” may be part of the kink and thus consensual, so the University of Iowa’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

- b. “Incapacitation.” Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs (including medication). Subsequent memory loss alone, which may not be observable at the time of events, is not sufficient to establish that someone was incapacitated.

Incapacitation is determined through consideration of all relevant indicators of the complainant’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. As stated above, a respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent. This policy covers a person whose incapacity results from:

1. A temporary or permanent physical or mental health condition,
2. Involuntary physical restraint, and/or
3. The consumption of alcohol or drugs.

It is a defense to a sexual harassment and sexual misconduct policy violation that the respondent neither knew nor should have known the complainant to be physically or mentally incapacitated, regardless of the reason. A determination whether a respondent “should have known” that a complainant was incapacitated is made by looking at the particular facts available from an objective, reasonable-person standard. The definition of “a reasonable person” includes a person who is both sober and exercising sound judgment.

4.14(2) Prohibited Conduct Defined

Paragraph a contains definitions required in Part 106.3 of the U.S. Department of Education Title IX Regulations. These definitions also apply in situations that are otherwise not covered by Title IX (e.g., off campus).

- a. "Sexual harassment I" means conduct on the basis of sex that satisfies one or more of the following:
1. An employee of the university conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct;
 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity; or
 3. "Sexual assault" as defined in 20 USC 1092(f)(6)(A)(v) means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes:
 1. "Fondling": The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
 2. "Incest": Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 3. "Statutory rape": Sexual intercourse with a person who is under the statutory age of consent.
 4. "Rape": The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 4. "Dating violence" as defined in 34 USC 12291(a)(10) means violence committed by a person:
 1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 1. The length of the relationship;
 2. The type of relationship;
 3. The frequency of interaction between the persons involved in the relationship.
5. "Domestic violence" as defined in 34 USC 12291(a)(8) means a felony or misdemeanor crime of violence committed:
 1. By a current or former spouse or intimate partner of the victim;
 2. By a person with whom the victim shares a child in common;
 3. By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
 4. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies; or
 5. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
6. Stalking as defined in 34 USC 12291(a)(30):
 1. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 1. Fear for their safety or the safety of others; or
 2. Suffer substantial emotional distress.
 2. Examples of stalking include:
 1. Attempting to gather information about the target of unwelcome conduct;

2. Vandalism, including attacks on data and equipment;
3. Direct physical and/or verbal threats against a target of unwelcome conduct or loved ones of a target of unwelcome conduct, including animal abuse;
4. Gathering of information about a target of unwelcome conduct from family, friends, coworkers, and/or classmates;
5. Manipulative and controlling behaviors such as threats to harm oneself, or threats to harm someone close to the target of unwelcome conduct;
6. Defamation or slander against the target of unwelcome conduct; posting false information about the target of unwelcome conduct; posing as the complainant in order to post to websites, news groups, blogs, or other sites that allow public contributions; and/or encouraging others to harass the target of unwelcome conduct;
7. Posing as someone other than oneself to initiate transactions, financial credit, loans, or other contractual agreements;
8. Arranging to meet the target of unwelcome conduct under false pretenses.

b. "Sexual misconduct" is a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation.

1. "Sexual harassment II" is 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.

Harassment of a sexual nature has the effect of limiting or denying another person's work or educational performance or creating an intimidating, hostile, or demeaning environment for employment, education, on-campus living, or participation in a university program or activity.

Examples of this type of behavior include:

1. Unwanted behavior of a sexual nature;
 2. Persistent unwelcome efforts to develop a romantic or sexual relationship;
 3. Unwelcome commentary about an individual's body or sexual activities;
 4. Repeated unwanted sexual attention;
 5. Repeated and unwelcome sexually oriented teasing, joking, or flirting;
 6. Verbal abuse of a sexual nature;
 7. Conditioning the provision of an aid, benefit, service, or an employment decision on submission to unwelcome behavior of a sexual nature;
 8. An expressed or implied threat to take adverse action against someone for rejecting sexual advances.
2. "Non-consensual sexual contact" is any intentional sexual contact, however slight, with any body part or object, by any individual upon another. "Sexual contact" includes intentional contact with the breasts, buttock, groin, or genitals, touching another with any of these body parts or an object, making another touch you or themselves with or on any of these body parts, or any intentional bodily contact in a sexual manner. Non-consensual sexual contact that occurs within the context of an individual's authorized responsibilities will be evaluated for reasonableness within that context. Non-consensual sexual contact may be found where the contact is:
1. Without consent,
 2. By force,
 3. By coercion, or
 4. Upon an individual without capacity to consent because of:
 1. Age,
 2. Temporary or permanent mental incapacity, or
 3. Temporary or permanent physical incapacity.

3. "Sexual exploitation" is conduct that takes non-consensual sexual advantage of another individual, often without the knowledge of that person, for any purpose, including sexual gratification, financial gain, personal benefit, or any other nonlegitimate purpose.

Examples of sexual exploitation include but are not limited to:

1. Non-consensual streaming, audio or video recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without consent of all parties involved;
2. Engaging in any form of voyeurism (e.g., "peeping");
3. Allowing others to view sexual acts (whether in person or via a video camera or other recording device) without the consent of all parties involved;
4. Arranging for others to have non-consensual sexual contact or penetration with a person;
5. Compelling another individual to touch their own or another individual's (third-party's) private parts without consent;
6. Threatening another person that you will commit a sex act against them;
7. Engaging in indecent exposure.

4.15 Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a complainant or respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The University of Iowa is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

It is prohibited for the University of Iowa or any member of the University of Iowa's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any

individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Charges against an individual for code of conduct violations that do not involve sexual harassment or sexual misconduct but arise out of the same facts or circumstances as a report or complaint, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

4.16 Mandated Reporting

All academic or administrative officers (AAOs) are mandated reporters who are required to report actual or suspected sexual harassment (including sexual assault, stalking, and dating and domestic violence), sexual misconduct, or related retaliation to the Office of the Sexual Misconduct Response Coordinator within 2 business days.

a. "Academic or administrative officer" includes the following:

1. Collegiate deans (including associate deans and assistant deans);
2. Faculty members with administrative responsibilities at the level of departmental executive officer (DEO) or above;
3. Any staff member whose primary job responsibility is to provide advice regarding a student's academic pursuits or other university-related activities;
4. Any faculty or staff member serving as departmental (or collegiate) director or coordinator of undergraduate or graduate studies, or as a director or coordinator of any departmental, collegiate, or university off-campus academic program (including any study-abroad program);

5. The President, Director of Equal Opportunity and Diversity, Sexual Misconduct Response Coordinator, vice presidents (including assistant and associate vice presidents), and Provost (including assistant and associate provosts), and those persons' designees;
6. Directors and supervisors in an employment context, including faculty and staff who supervise student employees, in relation to matters involving the employees they supervise (other than Department of Public Safety personnel when receiving criminal complaints or reports); and
7. Human resources representatives (including all central University Human Resources staff).

Any academic or administrative officer of the university who observes sexual harassment, sexual misconduct, or related retaliation, or who becomes aware of allegations of such behavior through a report from a complainant or third party shall take the actions described in this section, even if the complainant does not wish any action to be taken, and must notify the Office of the Sexual Misconduct Response Coordinator of the allegations within 2 business days.

b. The AAO must:

1. Inform the complainant or third-party reporter of the options available under this policy (i.e., support measures, formal complaint, adaptable resolution) and that certified victim advocacy services are available from the Rape Victim Advocacy Program or the Domestic Violence Intervention Program; and,
2. Provide notice of the allegations to the Office of the Sexual Misconduct Response Coordinator within 2 business days; and
3. When the alleged prohibited conduct occurs in the context of the respondent's employment, provide notice of the allegations to the Senior Human Resources Leadership Representative or Associate Dean for Faculty of the unit in which the alleged conduct occurred or, when incidents do not occur within a unit, notify the Senior Human Resources Leadership Representative or Associate Dean for Faculty of the respondent.

c. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected sexual harassment,

sexual misconduct, or related retaliation. They may offer options and resources without any obligation to inform an outside agency or campus official unless a complainant has requested the information be shared.

If a complainant expects formal action in response to their allegations, reporting to any AAO can connect them with resources to report crimes and/or policy violations, and these employees within 2 business days to the Title IX Coordinator (and/or police, if desired by the complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at the University of Iowa for a complainant or third party:

1. Confidential resources. If a complainant would like the details of an incident to be kept confidential, the complainant may speak with:
 1. Office of the Ombudsperson (for faculty, other instructors, staff, or students), 308 Jefferson Building;
 2. Employee Assistance Program (for faculty or staff), 121-50 University Services Building;
 3. University Counseling Service (for students), 3223 Westlawn;
 4. Women's Resource and Action Center (for faculty, other instructors, staff, students, or visitors), Bowman House;
 5. Rape Victim Advocacy Program (certified advocates) (for faculty, other instructors, staff, students, or visitors), 108 River Street;
 6. Domestic Violence Intervention Program (certified advocates) (for faculty, other instructors, staff, students, or visitors), 1105 South Gilbert Court, Iowa City.

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

2. Academic and administrative officers and formal notice/complaints. All University of Iowa academic and administrative officers (AAO) are mandated reporters and must promptly share with the Title IX Coordinator/Office of the Sexual Misconduct Response Coordinator all known details of a report made to them.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential AAOs as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the complainant clearly indicates that they desire a report to be made or seek a specific response from the University of Iowa.

Supportive measures may be offered as the result of such disclosures without formal University of Iowa action.

Failure of an AAO, as described above in this section, to report an incident of sexual harassment, sexual misconduct, or related retaliation of which they become aware is a violation of University of Iowa policy and can be subject to disciplinary action for failure to comply.

4.17 When a Complainant Does Not Wish to Proceed

(Amended 1/29/21)

Effective January 2021, this policy has been revised. For individual changes, see the [redlined version](#).

If a complainant does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the University of Iowa proceeds when the complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process.

Compelling reasons to initiate a grievance process may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The University of Iowa may be compelled to act on alleged employee misconduct irrespective of a complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the complainant may have on the availability of evidence and the University of Iowa's ability to pursue a formal grievance process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the complainant. The complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the University of Iowa proceeds, the complainant may have as much or as little involvement in the process as they wish. The complainant retains all rights of a complainant under this policy irrespective of their level of participation.

The University of Iowa's ability to remedy and respond to notice may be limited if the complainant does not want the University of Iowa to proceed with an investigation and/or grievance process. The goal is to provide the complainant with as much control over the process as possible, while balancing the University of Iowa's obligation to protect its community.

In cases in which the complainant requests confidentiality or no formal action and the circumstances allow the University of Iowa to honor that request, the University of Iowa will offer adaptable resolution options (see below), supportive measures, and remedies to the complainant and the community, but will not otherwise pursue formal action.

If the complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a complainant has the right, and can expect, to have allegations taken seriously by the University of Iowa, and to have the incidents investigated and properly resolved through these procedures.

4.18 Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that, under the [Clery Act](#), the University of Iowa must issue timely warnings, called "crime alerts," for incidents

reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The University of Iowa will ensure that a complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

4.19 False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under University of Iowa policy.

4.20 Amnesty for Complainants and Witnesses

The University of Iowa community encourages the reporting of misconduct and crimes by complainants and witnesses. Sometimes, complainants or witnesses are hesitant to report to University of Iowa officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University of Iowa community that complainants choose to report misconduct to University of Iowa officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the University of Iowa maintains a policy of offering parties and witnesses amnesty from minor policy violations — such as underage consumption of alcohol or the use of illicit drugs — related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline

system, and the rationale for amnesty — the incentive to report serious misconduct — is rarely applicable to the respondent with respect to a complainant.

Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual misconduct to the Department of Public Safety). The University of Iowa maintains a policy of amnesty for students who offer help to others in need. While policy violations cannot be overlooked, the University of Iowa may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

4.21 Federal Statistical Reporting Obligations

Certain campus officials — those deemed Campus Security Authorities — have a duty to report the following for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student affairs/student conduct staff, campus law enforcement/public safety/security, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

4.22 Education Programs

- a. Educational efforts are essential to the establishment of a campus that is free of sexual harassment and sexual misconduct. Several goals to be achieved through education include:
 1. Ensuring that complainants and respondents (and potential complainants) are aware of their rights;
 2. Notifying individuals of conduct that is prohibited;
 3. Informing administrators about the proper way to address complaints of violations of this policy; and
 4. Educating the community about the problems this policy addresses.

- b. Primary prevention and awareness programs for incoming students and employees that include information on sexual harassment/sexual misconduct, bystander intervention, and risk reduction, along with information on other forms of protected-class discrimination and harassment:
1. All faculty, staff, and students meeting the following criteria are required to complete an approved course offered by the university.
 1. Faculty: All faculty, any title, who hold at least a 50 percent appointment.
 2. Staff (P&S): All regular staff, employed at least 50 percent or greater time,
 3. Staff (merit): All regular staff, employed at least 50 percent or greater time,
 4. Medical residents and fellows: All who hold at least a 50 percent appointment during the academic year,
 5. Postdoctoral scholars/fellows: All who hold at least a 50 percent appointment during the academic year,
 6. Students (graduate/professional): All graduate/professional students who hold a teaching assistantship for a period of one semester or longer, and any other students as determined by the Provost,
 7. Students (undergraduate): University housing resident assistants, and any other student employees as determined by the Office of the Vice President for Student Life.
 2. Current faculty/staff: All current faculty and staff members meeting the criteria set out in paragraph b(1) above are required to participate in an approved harassment prevention course every 3 years (i.e., 3 calendar years from the date of their most recent training), unless more frequent training is required by the employing unit or college.
 3. New hires: All faculty and regular staff members who hold a 50 percent or greater appointment shall receive sexual harassment prevention education in the first 6 months of their employment (except for those whose positions fall under the definition of "academic and administrative officers"). Options for satisfying this requirement may include:

instructor-led sessions, specifically designated online courses, and/or annual new faculty orientations

4. Academic and administrative officers (AOOs): All faculty/staff hired into and/or promoted to a position defined by II-4.1c(1) of this policy as an academic/administrative officer (e.g., vice president, dean, DEO, student advisor, supervisor) shall complete an approved sexual harassment prevention course for supervisors within the first 2 months of their appointment. 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.
 5. The Title IX Coordinator has the centralized oversight and monitoring responsibility for ensuring members of the grievance process pool and the Title IX Team are free from conflict of interest or bias for or against complainants or respondents, and receive appropriate training to carry out their respective roles. Materials used to train members must be publicly available on the Office of the Sexual Misconduct Response Coordinator website.
 6. The Offices of Equal Opportunity and Diversity and Student Wellness are designated with centralized oversight and monitoring of compliance with the mandatory harassment prevention education for the campus community on sexual harassment, sexual misconduct, and other forms of protected-class discrimination and harassment.
- c. Preparation and dissemination of information. University Human Resources 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 university is provided to all students, faculty, and staff to remind them of the contents of this policy. Information about this policy will be made available continually at appropriate campus centers and offices and on the University of Iowa website.
 - d. Review of policy. This policy will be reviewed within 3 years after the latest revisions are implemented and revised as appropriate by the Title IX Coordinator. This policy is subject to review at any other time deemed necessary by the President, the General Counsel, or the Title IX Coordinator.

4.23 Procedure for Alleged Violations of the Policy on Sexual Harassment and Sexual Misconduct

(Amended 1/29/21; 7/9/21; 8/13/21)

Effective January 29 and July 9, 2021, this policy has been revised. For individual changes, see the [redlined version](#).

Effective **August 13, 2021**, this policy has been retitled to reflect the completion of the interim period.

- a. Procedure overview. The University of Iowa will act on any notice or complaint of a violation of the policy that is received by the Title IX Coordinator¹ or any other academic or administrative officer by applying these procedures, which include three possible methods for resolution known as Process A, Process B, and adaptable resolution.

The procedures below apply to all allegations of sexual harassment, sexual misconduct, or related retaliation involving students, staff, faculty, or visitors. Process B will be used to resolve formal complaints involving patients of University of Iowa Health Care. A set of technical dismissal requirements within the Title IX regulations may apply as described below, but when a technical dismissal under the Title IX allegations is required, any remaining allegations may proceed using these same grievance procedures, clarifying which aspects of the policy are applicable.

1. Process A is a formal grievance process that includes an investigation and live hearing.
2. Process B is a formal grievance process that includes an investigation and does not include a live hearing.
3. An adaptable resolution includes resolving a complaint informally.

The procedures below may be used to address related misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the policy will be addressed through procedures elaborated in the [Student Accountability Procedure](#), [Faculty Dispute Procedures \(III-29\)](#), [Equal Opportunity and Diversity Complaint Discrimination Procedure](#), or procedures noted in this *Operations Manual*.

- b. Notice/complaint. Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the policy, the University of Iowa initiates a prompt initial assessment to determine the next steps the University of Iowa needs to take.

The University of Iowa will initiate at least one of three responses:

1. Offering supportive measures because the complainant does not want to proceed formally; and/or
2. An adaptable resolution; and/or
3. A formal grievance process in accordance with Process A or Process B based on the following considerations:
 1. Process A applies in cases involving students, staff, faculty, or visitors where the alleged behavior meets the definition of sexual harassment as defined in the U.S. Department of Education Title IX Regulation 106.30. Process A also applies when the alleged sexual harassment or sexual misconduct, if true, could result in a student being suspended or expelled from the University of Iowa.
 2. Process B applies in cases involving students, staff, faculty, or visitors where the alleged behavior falls outside the definition of sexual harassment as defined by Title IX regulation, but nonetheless does meet the definition of prohibited behavior within the Policy on Sexual Harassment and Sexual Misconduct and, if true, would not result in a student being suspended or expelled.

Both formal grievance processes will determine whether or not the policy has been violated. If so, the University of Iowa will promptly implement remedies to ensure that it is not deliberately indifferent to harassment, its potential recurrence, or its effects. Both formal grievance processes also provide the respondent the opportunity to accept responsibility for violating the policy as charged at any point prior to the issuance of the notice of outcome.

- c. Initial assessment. Following receipt of notice or a complaint of an alleged violation of the Policy on Sexual Harassment and Sexual Misconduct, the Title IX Coordinator² engages in an initial assessment, which is typically 1 to 5 business days in duration. The steps in an initial assessment can include:

1. The Title IX Coordinator reaches out to the complainant to offer supportive measures and explain resolution options.
2. The Title IX Coordinator works with the complainant to ensure they are aware of the right to have an advisor.
3. If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the complainant to make sure it is correctly completed.
4. The Title IX Coordinator works with the complainant to determine whether the complainant prefers a supportive response, an adaptable resolution option, or a formal investigation and grievance process.
 1. If only supportive measures are preferred, the Title IX Coordinator works with the complainant to identify their wishes and then seeks to facilitate implementation. No formal grievance process is initiated, though the complainant can elect to initiate one later, if desired.
 2. If an adaptable resolution is preferred, the Title IX Coordinator determines in consultation with the investigator if the misconduct alleged falls within the scope of the Policy on Sexual Harassment and Sexual Misconduct, assesses whether the complaint is suitable for adaptable resolution, assesses which adaptable mechanism may serve the situation best or is available, and may seek to determine if the respondent is also willing to engage in an adaptable resolution.
 3. If a formal grievance process is preferred, the Title IX Coordinator determines in consultation with the investigator if the misconduct alleged falls within the scope of the Policy on Sexual Harassment and Sexual Misconduct:
 1. If it does, the Title IX Coordinator will initiate the formal investigation and grievance process under Process A or Process B, directing the investigation to address:
 1. An incident, and/or
 2. A pattern of alleged misconduct, and/or
 3. A culture/climate issue, based on the nature of the complaint.

2. If it does not, the Title IX Coordinator will determine if the complaint should be referred to the Office of Student Accountability, the Office of Equal Opportunity and Diversity, or Human Resources staff for resolution under another policy.
4. If the complainant does not wish to make a formal complaint, the Title IX Coordinator determines whether to initiate a complaint because of indicators that suggest a compelling threat to campus or to the health and/or safety of campus members.
5. Dismissal (mandatory and discretionary).³ The U.S. Department of Education Title IX regulations require that schools clearly differentiate in their process whether a complaint is subject to the protections afforded under Title IX. The regulations use the term “dismissal” to indicate that something has been determined outside the scope of Title IX. If a complaint is dismissed under Title IX, it may still be resolved through a formal grievance process (Process A or Process B). Though it is possible that a complaint or allegation could be dismissed from the formal grievance process altogether, this section covers mandatory and discretionary dismissal under Title IX only. A formal complaint, or any allegations therein, **must** be dismissed in accordance with Title IX if, at any time during the investigation or hearing, it is determined that:
 1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined in Part 106.3 of the U.S. Department of Education’s Title IX regulations, even if proved; and/or
 2. The conduct did not occur in an education program or activity controlled by the University of Iowa (including buildings or property controlled by recognized student organizations), and/or the University of Iowa does not have control of the respondent; and/or
 3. The conduct did not occur against a person in the United States; and/or
 4. At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the University of Iowa.

6. The University of Iowa **may** dismiss a formal complaint or any allegations in it if, at any time during the investigation or hearing:
 1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations; or
 2. The respondent is no longer enrolled in or employed by the University of Iowa; or
 3. Specific circumstances prevent the University of Iowa from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.
 7. Upon any dismissal, the University of Iowa will promptly send written notice of the dismissal under Title IX and may continue with a formal grievance process or an adaptable resolution.
 8. The decision to dismiss or not to dismiss is appealable by any party at the conclusion of a formal grievance process. A complainant who decides to withdraw a complaint may later request to reinstate it or refile it.
- d. Counterclaims. The University of Iowa is obligated to ensure that the grievance process is not abused for retaliatory purposes. The University of Iowa permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims will be dismissed if not made in good faith.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator or the investigator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

- e. Right to advisors. Parties have a right to receive support and advice throughout the university's resolution process. They may have up to two people providing these services who may attend all

meetings and interviews at which the party is entitled to be present. The university has identified the following roles to meet this need.

1. Support advisor:

1. May be a friend, victim advocate, mentor, family member, or any other individual a party chooses to support them throughout the resolution process.
2. May be present with their advisee, at the advisee's discretion, at all stages of the process.
3. May ask for breaks or other assistance on behalf of the advisee, but not permitted to ask or answer questions or provide information on any substantive issues of the complaint.
4. Someone who serves as a support advisor is not permitted to serve as a witness.

2. Hearing advisor:

1. May be a friend, mentor, family member, attorney, or any other individual a party chooses to advise them related to the hearing. The parties may choose a hearing advisor from outside of the university or one will be provided to them from the university pool.
2. Primary role is to ask questions of parties and witnesses at the hearing in consultation with the advisee.
3. Participates only in the hearing and meetings related to the hearing.
4. Is not permitted to speak on behalf of the advisee outside the context of asking questions at the hearing.
5. Someone who serves as a hearing advisor is not permitted to serve as a witness.

3. Legal advisor:

1. Complainants and respondents may have a legal advisor throughout the process. Legal advisors are not provided by the university.

2. May be present with their advisee, at the party's discretion, at all stages of the process.
3. If attending hearing, will serve as hearing advisor.
4. At the hearing, legal advisors may not communicate on behalf of their client outside the context of asking questions.
5. Someone who serves as a legal advisor is not permitted to serve as a witness

The parties may select whoever they wish to serve as their advisors as long as the advisors are willing, eligible and available.

4. Hearing advisors/University of Iowa-appointed advisor. Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have a hearing advisor, the University of Iowa will appoint someone for the limited purpose of asking questions of the parties and witnesses at a hearing.

The University of Iowa cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, the University of Iowa is not obligated to provide an attorney.

A party may reject this appointment and choose their own advisor, but they may not proceed without a hearing advisor. If the party's hearing advisor will not conduct cross-examination, the University of Iowa will appoint an advisor who will do so, regardless of the participation or nonparticipation of the advised party in the hearing itself. Questioning of the parties and witnesses will also be conducted by the adjudicator during the hearing.

Communications between a university-appointed advisor and their advisee are confidential for purposes of this administrative process; however, such communications may be subject to disclosure pursuant to court order or other legal process. University-appointed advisors do not provide legal advice, even if the appointed advisor has a license to practice law.

5. Expectations of advisors. The University of Iowa generally expects an advisor to adjust their schedule to allow them to attend University of Iowa meetings when planned, but may change scheduled meetings to accommodate an advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University of Iowa may also make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies, as may be convenient and available.

Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

All advisors are subject to the University of Iowa's policies and procedures, whether they are university-appointed or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University of Iowa officials in a meeting or interview unless invited to (e.g., asking procedural questions). The advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the investigator(s) or adjudicator except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although an advisor generally may not speak on behalf of their advisee, the advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their advisors should ask for breaks to allow for private consultation.

Any advisor who oversteps their role as defined by this policy will be warned only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the meeting will be ended, or other appropriate measures implemented, including that the University of Iowa may require the party to use a different advisor. Subsequently, the Title IX Coordinator will determine how to address the advisor's non-compliance and future role.

6. Sharing Information with advisors. The University of Iowa expects that the parties may wish to have the university share documentation and evidence related to the allegations with their advisors. Parties may share this information directly with their advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

The university requires a consent and privacy form that authorizes the University of Iowa to share such information directly with their advisor. The parties must either complete and submit the form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the advisor before University of Iowa is able to share records with an advisor.

If a party requests that all communication be made through their advisor, the University of Iowa will not comply with that request.

7. Privacy of records shared with advisors. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University of Iowa. University of Iowa may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University of Iowa's privacy expectations.
8. Expectations of the parties with respect to advisors. A party may elect to change advisors during the process and is not obligated to use the same advisor(s) throughout. The parties are expected to inform the investigator(s) of the identity of their advisor(s) at least 2 business days before the date of their first meeting with investigators.

The parties are expected to provide timely notice to the Title IX Coordinator if they change advisors at any time. Once notified of a change in advisors, consent to share information with the previous advisor is terminated, and a release for the new advisor must be provided. Parties are expected to inform the Title IX Coordinator of the identity of their hearing advisor at least 2 business days before the hearing.

As a public entity, the University of Iowa fully respects and accords the Weingarten rights of employees (<https://hr.uiowa.edu/support/laborunion-relations/weingarten-rights->

employees). For parties who are entitled to union representation, the University of Iowa will allow the unionized employee to have their union representative (if requested by the party) as well as an advisor of their choice present for all resolution-related meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two advisors. Witnesses are not permitted to have union representation or advisors in grievance process interviews or meetings.

- f. **Adaptable resolution.** Adaptable resolution is an alternative to the formal grievance process by which a mutually-agreed-upon resolution of an allegation is reached. All parties must consent to the use of an adaptable resolution. Adaptable resolution is not available to resolve allegations by a student against an employee for sexual harassment as defined in Section 106.3 of the Department of Education Title IX regulations. Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with university policy. While there is an expectation of privacy around what adaptable resolution facilitators share with parties during meetings, the parties have discretion to share their own knowledge and evidence with others if they so choose. The University of Iowa encourages parties to discuss this with their advisors before doing so.

1. **Adaptable resolution options.** Adaptable resolution can include three different approaches:

1. When the parties agree to resolve the matter through a mechanism like mediation, restorative practices, etc.;
2. When the respondent accepts responsibility for violating policy, and desires to accept a sanction and end the formal grievance process; or
3. When the parties reach a resolution through shuttle diplomacy.

To initiate an adaptable resolution, a complainant needs to submit a formal complaint, as defined above. If a respondent wishes to initiate an adaptable resolution, they should contact the Title IX Coordinator to so indicate. When the Title IX Coordinator makes the formal complaint, the Title IX Coordinator may initiate an adaptable resolution with the respondent.

If a complainant wants to initiate an adaptable resolution, but the respondent

declines to participate, the complainant may opt to use the formal grievance process. If a respondent wants to initiate an adaptable resolution upon receiving notice of a complaint, but the complainant declines to participate, the formal grievance process will continue. If the Title IX Coordinator wants to initiate an adaptable resolution, but the respondent declines to participate, the formal grievance process will continue.

It is not necessary to pursue an adaptable resolution first in order to pursue a formal grievance process, and any party participating in an adaptable resolution can stop the process at any time and begin or resume the formal grievance process.

Prior to implementing the adaptable resolution, the University of Iowa will provide the parties with written notice of the complaint and any consequences or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University of Iowa.

The University of Iowa will obtain voluntary, written confirmation that all parties wish to resolve the matter through the adaptable resolution process before proceeding and will not pressure the parties to participate. When the Title IX Coordinator makes the formal complaint and initiates the adaptable resolution process, the Title IX Coordinator may consult with and inform any non-participating complainant about the adaptable resolution.

2. Considerations for proceeding with an adaptable resolution. The Title IX Coordinator may look to the following factors to assess whether an adaptable resolution is appropriate, or which form of resolution may be most successful for the parties:
 1. The parties' amenability to adaptable resolution;
 2. Likelihood of potential resolution, taking into account any power dynamics between the parties;
 3. The parties' motivation to participate;