

# University of Iowa

## CHAPTER 4: SEXUAL HARASSMENT

(President 7/28/86; 12/91; 7/1/02; 3/21/05; 12/05)

Note: This policy has been revised effective 3/21/05.

### 4.1 Policy

### 4.2 Procedures

### 4.3 Educational Programs

#### **4.1 POLICY.**

##### a. Rationale.

- (1) Sexual harassment is reprehensible and will not be tolerated by the University. It subverts the mission of the University, and threatens the careers, educational experience, and well-being of students, faculty, and staff. In both obvious and subtle ways, sexual harassment is destructive to individual students, faculty, staff, and the academic community as a whole. When, through fear of reprisal, a student, staff member, or faculty member submits, or is pressured to submit, to unwanted sexual attention, the University's ability to carry out its mission is undermined.
- (2) Sexual harassment is especially serious when it threatens relationships between teacher and student or supervisor and subordinate. In such situations, sexual harassment unfairly exploits the power inherent in a faculty member's or supervisor's position. A supervisor's or instructor's control of grades, compensation, recommendations, promotions, and the like can have a decisive influence on a student's, staff member's, or faculty member's career at the University and beyond.
- (3) Although sexual harassment most often takes place in situations where a power differential exists between the persons involved, the University also recognizes that sexual harassment may occur between persons of the same University status, or when the power relationship is reversed from the usual case. Sexual harassment may occur between individuals of opposite sex or between individuals of the same sex.
- (4) The University will not tolerate behavior of a sexual nature by members of the University community that creates an intimidating or hostile environment for employment, education, on-campus living, or participation in a University activity. Furthermore, all members of the University community are expected to take appropriate steps to support this policy and to address incidents of sexual harassment that occur within their areas.

##### b. Prohibited conduct -- policy statement. The University of Iowa forbids sexual harassment by any member of the University community.

- (1) Definition of sexual harassment. For purposes of this policy, "sexual harassment" means persistent, repetitive, or egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret, in the full context in which the conduct occurs, as harassment of a sexual nature, when:
  - (a) Submission to such conduct is made or threatened to be made explicitly or implicitly a term or condition of employment, education, on-campus living environment, or participation in a University activity;
  - (b) Submission to or rejection of such conduct is used or threatened to be used as a basis for a decision affecting employment, education, on-campus living environment, or participation in a University activity; or,

- (c) Such conduct has the purpose or effect of unreasonably interfering with work or educational performance, or of creating an intimidating or hostile environment for employment, education, on-campus living, or participation in a University activity.
- (2) Evidence of sexual harassment. Behavior that may be considered evidence of prohibited sexual harassment includes, but is not limited to, the following:
- (a) Physical assault;
  - (b) Direct or implied threats that submission to sexual advances will be a condition of, or that failure to submit to such advances will adversely affect, employment, work status, promotion, grades, letters of recommendation, or participation in a University activity;
  - (c) Direct propositions of a sexual nature;
  - (d) Subtle pressure for sexual activity, an element of which may be repeated staring;
  - (e) A pattern of sexually explicit statements, questions, jokes, or anecdotes, whether made orally, in writing, or through electronic media (see also II-19 Acceptable Use of Information Technology Resources);
  - (f) A pattern of conduct involving:
    - (i) Unnecessary touching;
    - (ii) Remarks of a sexual nature about a person's clothing or body; or,
    - (iii) Remarks relating to sexual activity or speculations concerning previous sexual experience;
  - (g) A display of graphic sexual material (not legitimately related to the subject matter of a course, if one is involved, or to job requirements) in a context where others are not free to avoid the display because of an employment or educational requirement or without surrendering a privilege or opportunity that others may reasonably expect to enjoy in that location.

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

(3) Definitions of other terms used in this policy:

- (a) "Academic or administrative officer" includes the following:
  - (i) Collegiate deans (including associate deans and assistant deans),
  - (ii) Faculty members with administrative responsibilities at the level of departmental executive officer (DEO) or above,
  - (iii) Any staff member whose primary job responsibility is to provide advice regarding a student's academic pursuits,

- (iv) A faculty member serving as departmental (or collegiate) Director of Undergraduate or Graduate Studies,
  - (v) The President, Director of Equal Opportunity and Diversity, vice presidents (including assistant and associate vice presidents), and Provost (including assistant and associate provosts), and those persons' designees,
  - (vi) Directors and supervisors in an employment context, other than Department of Public Safety personnel when receiving criminal complaints or reports, and
  - (vii) Human resource representatives.
- (b) "Alleged victim": a person who allegedly has been harassed in violation of this policy.
  - (c) "Complainant": the person who brings a complaint of violation of this policy, who could be an alleged victim, a third party, or an academic or administrative officer of the University.
  - (d) "Graduate assistant": a graduate student employed by the University as a research assistant or teaching assistant.
  - (e) "Human resources representative": an individual designated as a unit's authority on human resource policies and procedures, and all central Human Resources staff.
  - (f) "Member of the University community": any University student, or faculty or staff member.
  - (g) "Protected interests": University employment, education, on-campus living, or participation in a University activity.
  - (h) "Respondent": a person who has been accused of harassment in a formal complaint.
  - (i) "Specific and credible allegations": allegations that provide factual details such as, but not limited to, time, place, actions, participants, and witnesses. Allegations do not have to be based on first-hand observation of events to be "specific and credible," but direct observation normally results in greater specificity and credibility than indirect knowledge.
  - (j) "Supervisor": a person who has authority either: 1) to undertake or recommend tangible employment decisions (those that significantly change an employee's employment status, such as, but not limited to, hiring, firing, promoting, demoting, reassigning, and compensation decisions) affecting an employee, or 2) to direct the employee's daily work activities.
  - (k) "Third-party complainant": a person who brings a complaint alleging that someone else has been harassed in violation of this policy.

#### **4.2 PROCEDURES.**

##### **a. Bringing a complaint.**

- (1) A complaint that this policy has been violated may be brought through informal or formal channels by any member of the University community, including a third party, or by the University itself. A complaint must state specific and credible

allegations to warrant an investigation. There is no time limit for bringing a complaint; however, it may be difficult to substantiate the allegations made in a complaint brought after significant time has passed. Therefore, prompt reporting of complaints is strongly encouraged.

- (2) Substantial weight will be given to the wishes of the alleged victim when determining whether to investigate a complaint, but the University may investigate a complaint even without the alleged victim's consent if circumstances warrant (such as when there are multiple complaints against the same person or allegations are particularly egregious).
- (3) Anyone (victims or others) who wishes to consult with someone about a specific situation on a confidential basis or learn more about enforcement of the Policy on Sexual Harassment may contact any of the following offices or organizations:
  - (a) Office of the Ombudsperson (for faculty, staff, or students)
  - (b) Faculty and Staff Services (for faculty or staff)
  - (c) University Counseling Service (for students)
  - (d) Women's Resource and Action Center (for faculty, staff, or students)
  - (e) Rape Victim Advocacy Program (for faculty, staff, or students)

Representatives of these offices or other support persons may accompany an alleged victim during the investigation process if the alleged victim so desires.

These offices are exempt from the reporting requirements set forth in II-4.2b(4) of this policy. Other offices may be required to report allegations as described in II-4.2b(4).

b. Informal resolution of complaints.

- (1) A complaint may be brought informally to any academic or administrative officer of the University.
- (2) The academic or administrative officer will counsel the complainant as to the options available under this policy and the resources available from the Rape Victim Advocacy Program and, at the complainant's request, will
  - (a) help the complainant resolve the complaint informally, and/or
  - (b) refer the complainant to the Office of Equal Opportunity and Diversity so that the complainant may choose either to pursue informal resolution through that office or to bring a formal complaint.

The Office of Equal Opportunity and Diversity is available to assist persons to whom complaints are brought in determining whether there is a potential policy violation and whether reporting pursuant to II-4.2b(4) below is required.

- (3) When a complaint is brought informally, the person(s) charged in the complaint will not ordinarily be informed of the complaint without the consent of the alleged victim unless circumstances require (such as when there are multiple complaints against the same person or allegations are particularly egregious). No disciplinary action can be taken against a person charged in an informal complaint, and there will be no record of the complaint in the person's employment or student disciplinary file, unless the person is notified of the charges and given an opportunity to respond.
- (4) Any academic or administrative officer of the University who becomes aware of specific and credible allegations of sexual harassment, whether through the report of a complainant (including a third party) or otherwise, shall report the allegations promptly to the Office of Equal Opportunity and Diversity (except for allegations

against a student regarding conduct occurring in the residence halls, which shall be reported to the Office of the Vice President for Student Services) for assistance in evaluating the situation and determining an appropriate course of action, even if the alleged victim has requested that no action be taken.

If there is a supervisory relationship between the complainant and/or victim and the respondent, the appropriate course of action will include development of a plan to avoid any perceived or actual conflict of interest until the complaint is resolved.

The initial report should be made by telephone, but a written report also must be made after the complaint is resolved using the Office of Equal Opportunity and Diversity Report of Informal Sexual Harassment Complaint form, which requires disclosure of the employment or student status of the alleged victim(s), the complainant(s) (if other than the alleged victim), and the person(s) charged; the unit(s) with which those persons are affiliated; a summary of the allegations; and a description of the steps taken to resolve the complaint.

In order for the University to respond effectively to cases involving a potential pattern of prohibited conduct by the same individual, if the academic or administrative officer informs the person charged of the existence of the informal complaint, the academic or administrative office shall provide the names of the parties to the Office of Equal Opportunity and Diversity. If the academic or administrative officer does not inform the person charged of the complaint, the academic or administrative office shall not provide the names of the parties to the Office of Equal Opportunity and Diversity.

- (5) The academic or administrative officer shall take appropriate interim action, which may include those actions described in II-4.2g, to address the alleged behavior and protect the health or safety of the alleged victim, complainant, and/or witnesses.
- (6) The academic or administrative officer shall make reasonable efforts to resolve complaints promptly and effectively, giving consideration to the nature of the allegations and the circumstances surrounding the complaint process.
- (7) It is the responsibility of the academic or administrative officer who facilitates the informal resolution of the complaint to follow-up with the parties at a reasonable interval(s) to assess their compliance with the terms of the informal resolution and take appropriate action as warranted based on the parties' level of compliance.

c. Investigation of formal complaints.

- (1) A formal complaint pursuant to this policy must be brought to the Office of Equal Opportunity and Diversity, which will conduct an investigation.
- (2) A formal complaint may be brought after an informal resolution was not successfully reached, when the terms of an informal resolution were not followed, or immediately without pursuing informal resolution.
- (3) The purpose of the investigation is to establish whether there is a reasonable basis for believing that a violation of this policy has occurred. In conducting the investigation, the Office of Equal Opportunity and Diversity will make reasonable efforts to interview the alleged victim, the complainant (if other than the alleged victim), and the respondent, and may interview other persons believed to have pertinent factual knowledge, as well as review any relevant documentary evidence. At all times, the Office of Equal Opportunity and Diversity will take steps to ensure confidentiality to the extent possible.
- (4) When a formal complaint is brought, the respondent will be informed of the allegations, the identity of the complainant, and the facts surrounding the allegations.

The investigation will afford the respondent an opportunity to respond to the allegations and evidence provided by the complainant and/or alleged victim, and to provide a statement of the facts as perceived by the respondent.

- (5) At the conclusion of the investigation, the Office of Equal Opportunity and Diversity will issue a written finding which will summarize the evidence gathered and state whether or not there is a reasonable basis for believing that a violation of this policy has occurred. The written finding normally will be issued within 45 days of when the complaint was filed. When it is not reasonably possible to issue the finding within that time, the Office of Equal Opportunity and Diversity will notify the alleged victim and the respondent that the finding will be delayed and indicate the reasons for the delay. The alleged victim and the respondent will receive a copy of the written finding, which is to remain confidential as defined by II-4.2i(3). Third-party complainants will be notified only that the proceedings are concluded.
- (6) If the Office of Equal Opportunity and Diversity finds a reasonable basis for believing that a violation of this policy has occurred, the matter will be referred to the appropriate administrator for further consideration as outlined in II-4.2d below.

d. Process for formal disciplinary action.

- (1) The following administrators will review the finding of the Office of Equal Opportunity and Diversity:
  - (a) the Office of the Provost, if the respondent is a faculty member or other instructional personnel (except graduate assistants);
  - (b) the office of the vice president or dean responsible for the unit employing the person charged, if the respondent is a staff member;
  - (c) the Office of the Vice President for Student Services and Dean of Students, if the respondent is a student;
  - (d) the Office of the Dean of the Graduate College, if the respondent is a graduate assistant.
- (2) These administrators may:
  - (a) accept all or any part of the findings of the Office of Equal Opportunity and Diversity;
  - (b) not accept all or any part of the findings of the Office of Equal Opportunity and Diversity;
  - (c) reach a negotiated settlement of the complaint with the respondent; or
  - (d) initiate formal disciplinary action.
- (3) Violations of the Policy on Sexual Harassment may lead to disciplinary sanctions up to and including termination or separation from The University of Iowa. Sanctions for violations of this policy should be commensurate with the nature of the violation and the respondent's disciplinary history.

Those who violate this policy should bear the consequences of their actions, even if factors such as substance abuse or personal problems contribute to misconduct. When the offense is serious, it is appropriate to consider separation from the University even in cases of first offense, and even when the respondent experiences remorse and/or did not intend to cause the resulting degree of harm.

- (4) In addition to other disciplinary action, persons who are found to have violated this policy may be required to participate in group counseling or personal therapy sessions, complete community service, enroll in a specific academic course, attend an educational workshop, and/or make restitution for economic damages caused by their behavior.

When the respondent is a faculty or staff member, the Office of Faculty and Staff Services (121-50 University Services Building) is available to assist with locating appropriate resources. When the respondent is a student, University Counseling Service (3223 Westlawn) is available to assist with locating appropriate resources.

- (5) It is the responsibility of the appropriate administrator to follow up with the parties at a reasonable interval(s) to assess their compliance with the disciplinary and/or remedial sanctions imposed. More serious sanctions, up to and including termination of employment or separation from the University, may be imposed in the event that the respondent fails to comply with the sanctions initially imposed.

e. Applicable procedures. Formal disciplinary action resulting from violations of this policy by:

- (1) faculty members will be governed by the III-29 Faculty Dispute Procedures and that portion of those procedures dealing with faculty ethics (see III-29.7).
- (2) staff members will be governed by applicable University policies, including III-16 Ethics and Responsibilities for Staff and the applicable discipline and/or grievance procedures (see III-28 Conflict Management Resources for University Staff and/or relevant collective bargaining agreement);
- (3) graduate assistants, when dismissal is sought, will be governed by the procedure for dismissal of graduate assistants (see III-12.4). When disciplinary action other than dismissal is taken by the Dean of the Graduate College, a graduate assistant may appeal through any existing contractual grievance procedures;
- (4) students will be governed by Judicial Procedure for Alleged Violations of the Code of Student Life. Both the Code of Student Life and the Judicial Procedure are published and distributed to students annually in Policies and Regulations Affecting Students.

f. Isolated behavior. This section addresses isolated behavior that does not rise to the level of a violation of this policy. However, it should be understood that a single incident can under certain circumstances constitute harassment in violation of this policy. The purpose of this section is preventative, in that it authorizes and encourages appropriate intervention designed to avoid a violation of this policy.

- (1) Isolated behavior of the kind described in II-4.1b(2), which does not rise to the level of sexual harassment but which if repeated could rise to that level, demonstrates insensitivity that may warrant remedial measures. Academic or administrative officers who become aware of such behavior in their areas should counsel those who have engaged in the behavior. Such counsel should include a clear statement that the behavior is not acceptable and should cease, information about the potential consequences if such behavior persists, and a recommendation, as appropriate, to undertake an educational program designed to help the person(s) understand the harm caused by the behavior.
- (2) After such counseling occurs, if a person continues to engage in the conduct described in II-4.2f(1), he or she may be deemed to have engaged in sexual harassment.

g. Protection of alleged victims, complainants, and others.

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

- (2) Throughout the investigation and resolution of a complaint, steps will be taken to protect alleged victims, complainants, witnesses, and others from harm caused by continuation of the alleged harassing behavior.
- (3) Retaliation against alleged victims, complainants, and/or witnesses who provide information during an investigation pursuant to this policy is prohibited by II-11 Anti-Retaliation. Reasonable action will be taken to assure that alleged victims, complainants, and/or witnesses will suffer no retaliation as the result of their activities with regard to the process.
- (4) Steps that may be taken to protect alleged victims, complainants, witnesses, and others from continued harassment and/or retaliation might include:
  - (a) lateral transfers of one or more of the parties in an employment setting and a comparable move if a classroom setting is involved, and
  - (b) arrangements that academic and/or employment evaluations concerning the complainant or others be made by an appropriate individual other than the respondent.
- (5) Any retaliation against alleged victims, complainants, or witnesses should be reported to the Office of Equal Opportunity and Diversity for further investigation. Retaliation may result in disciplinary action against the person committing the retaliatory act(s).
- (6) In extraordinary circumstances, the Provost, a dean, a DEO, or any vice president may, at any time during or after an investigation of a sexual harassment complaint, suspend or partially restrict from employment any employee accused of sexual harassment if the Provost, dean, DEO, or vice president finds that it is reasonably certain that:
  - (a) the alleged sexual harassment has occurred, and
  - (b) serious and immediate harm will ensue if the person continues his or her employment.

Similarly, if the respondent is a student, interim sanctions may be imposed pursuant to Section 10 of the Judicial Procedure for Alleged Violation of the Code of Student Life.

#### h. Protection of the respondent.

- (1) This policy shall not be used to bring knowingly false or malicious charges. Bringing such a charge may subject the complaining party to remedial and/or disciplinary action up to and including termination or separation from the University. Any such disciplinary action will be initiated by the appropriate administrator overseeing the complainant(s).
- (2) In the event the allegations are not substantiated, reasonable steps will be taken to restore the reputation of the respondent if it was damaged by the proceeding. The respondent may consult with the Office of Equal Opportunity and Diversity regarding reasonable steps to address such concerns.

#### i. Confidentiality.

- (1) In order to empower community members to voice concerns and bring complaints, the confidentiality of all parties will be protected to the greatest extent possible. However, community members cannot guarantee confidentiality in all cases and are expected to take some action once they are made aware that sexual harassment may be occurring.

- (2) Anyone (alleged victims or others) who wishes to consult with someone about a specific situation on a confidential basis or to learn more about enforcement of the policy may contact any of the following offices or organizations:
  - (a) Office of the Ombudsperson (for faculty, staff, or students)
  - (b) Faculty and Staff Services (for faculty or staff)
  - (c) University Counseling Service (for students)
  - (d) Women's Resource and Action Center (for faculty, staff, or students)
  - (e) Rape Victim Advocacy Program (for faculty, staff, or students)
- (3) The parties to a complaint (alleged victims, third-party complainants, and respondents) are expected to maintain confidentiality as well. Parties are not prohibited from discussing the situation outside of the work or educational environment. However, the matter should not be discussed in the work or educational environment.
- (4) Dissemination of documents relating to a complaint and/or investigation, other than as necessary to pursue an appeal, grievance, or other legal or administrative proceeding, is prohibited.
- (5) Failure to maintain confidentiality by a respondent may be considered to be a form of retaliation in violation of II-4.2g(3). Failure to maintain confidentiality by any party (alleged victim, third party complainant, or respondent) may result in disciplinary action.

#### **4.3 EDUCATIONAL PROGRAMS.**

##### a. Education as a key element of University policy.

- (1) Academic and administrative officers are responsible for knowing and understanding the contents of this policy and the procedures for processing complaints brought to them pursuant to this policy. The Office of Equal Opportunity and Diversity offers educational programs for academic and administrative officers about their responsibilities under this policy, and those individuals are expected to attend such a program.
  - (2) Educational efforts are essential to the establishment of a campus milieu that is free of sexual harassment. There are at least four goals to be achieved through education:
    - (a) ensuring that alleged victims (and potential victims) are aware of their rights;
    - (b) notifying individuals of conduct that is proscribed;
    - (c) informing administrators about the proper way to address complaints of violations of this policy; and
    - (d) helping educate the community about the problems this policy addresses.
  - (3) To achieve the goals set forth in paragraph (2) above, the Office of Equal Opportunity and Diversity offers programs designed to educate the University community about sexual harassment prevention. The Office of Equal Opportunity and Diversity also offers programs designed to inform those whose behavior does not rise to the level of a violation of this policy as defined in II-4.1b, but if repeated could rise to the level of a violation, of the problems they create by their insensitive conduct. Educational programs may be recommended for those described in II-4.2f and may be an element in the resolution of a complaint. Educational programs and/or individual training also may be mandated for persons found to have violated this policy.
- b. Preparation and dissemination of information. The Office of Equal Opportunity and Diversity is charged with distributing information about this policy to all current members of the University community and to all those who join the community in the future. An annual notification from the Office of Equal Opportunity and Diversity is provided to all faculty and staff to remind them of the contents of this policy. A copy of the sexual harassment policy will be included in student orientation materials, including those distributed to students in

professional schools. This policy also is published in *Policies and Regulations Affecting Students*, which is provided to all students annually. In addition, information about this policy will be made available continually at appropriate campus centers and offices.

- c. Review of policy. This policy will be reviewed within three years after the latest revisions are implemented and revised as appropriate. This policy is subject to review at any other time deemed necessary by the President, the General Counsel, or the Director of Equal Opportunity and Diversity.