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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; 12/17/21; 1/28/22; 3/30/22 9/2/22; 9/23/22)

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](tel:319-335-6000)

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

Emergency Department, University of Iowa Hospitals & Clinics —
confidential medical services, [319-356-2233](tel:319-356-2233)

University of Iowa Police Department —
law enforcement services, [319-335-5022](tel:319-335-5022), or 911 from any campus phone

Additional resources, including information about culturally specific resources, can be found at <https://diversity.uiowa.edu/resources/tixge-resources/complainant-resources>.

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4.1 Glossary

(Amended 1/29/21)

- a. “Academic or administrative officers (AAOs)” are mandated reporters¹ who are required to report actual or suspected sexual harassment (including stalking, dating violence, and domestic violence), sexual misconduct, or related retaliation to Title IX and Gender Equity in the Office of Civil Rights Compliance 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.
- ab. "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.
- ac. "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.
- ad. "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.
- ae. "Title IX team" refers to the Title IX Coordinator, deputy coordinators, or other designee, and any member of the grievance process pool.
- af. "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](tel: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](tel: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
Title IX and Gender Equity, Office of Civil Rights Compliance
455 Van Allen Hall
Phone: 319-335-6200
Email: oie-tixge@uiowa.edu
Web: https://diversity.uiowa.edu/resources/tixge-resources

(2) Sara Feldmann, Deputy Title IX Coordinator and
Assistant Director, Title IX and Gender Equity, Office of Civil Rights Compliance
455 Van Allen Hall
Phone: 319-335-6200
Email: oie-tixge@uiowa.edu

(3) 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 Title IX and Gender Equity (319-335-6200; oie-tixge@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 Title IX and Gender Equity.
 - (2) Report online, using the reporting form posted at https://diversity.uiowa.edu/report/report-problem. 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 Title IX and Gender Equity, 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://diversity.uiowa.edu/resources/tixge-resources/complainant-resources>) 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](tel:319-356-2233)
UIHC Nurseline (operated 24 hours): [319-384-8442](tel: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.¹ 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: Title IX and Gender Equity and the Equity Investigations unit in the Office of Civil Rights Compliance, 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, University of Iowa Police, and the Threat Assessment Team. 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 Clery 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://diversity.uiowa.edu/resources/tixge-resources/complainant-resources>).

- 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

(Amended 9/2/22)

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.

The university will apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint, subject to the revision procedure found in [II-4.23ao](#).

4.14 Prohibited Conduct

(Amended 1/29/21; 7/8/21; 8/13/21; 9/2/22; 9/23/22)

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.

- c. "Coercion." Coercion is the use of an unreasonable amount of pressure that would overcome the will of a reasonable person. Coercion is more than an effort to persuade, entice, or attract another person to engage in sexual activity. When a person makes clear a decision not to participate in a particular sexual activity, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued pressure can become coercive. In evaluating whether coercion was used, the university will consider: (1) the frequency, intensity, and duration of the pressure; (2) the degree of isolation of the person being pressured; and (3)

any actual or perceived power differential between the parties in the context of their respective roles within the university.

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 at or attempted against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes:

(a) "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.

(b) "Incest": Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(c) "Statutory rape": Sexual intercourse with a person who is under the statutory age of consent.

(d) "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:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship;

(iii) 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:

- (a) By a current or former spouse or intimate partner of the victim;
- (b) By a person with whom the victim shares a child in common;
- (c) By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- (d) 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
- (e) 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):

(a) "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (i) Fear for their safety or the safety of others; or
- (ii) Suffer substantial emotional distress.

(b) Examples of stalking include:

- (i) Attempting to gather information about the target of unwelcome conduct;
- (ii) Vandalism, including attacks on data and equipment;
- (iii) Direct physical and/or verbal threats against a target of unwelcome conduct or loved ones of a target of unwelcome conduct, including animal abuse;
- (iv) Gathering of information about a target of unwelcome conduct from family, friends, coworkers, and/or classmates;
- (v) Manipulative and controlling behaviors such as threats to harm oneself, or threats to harm someone close to the target of unwelcome conduct;
- (vi) 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;
- (vii) Posing as someone other than oneself to initiate transactions, financial credit, loans, or other contractual agreements;
- (viii) 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:

- (a) Unwanted behavior of a sexual nature;
- (b) Persistent unwelcome efforts to develop a romantic or sexual relationship;
- (c) Unwelcome commentary about an individual's body or sexual activities;
- (d) Repeated unwanted sexual attention;
- (e) Repeated and unwelcome sexually oriented teasing, joking, or flirting;
- (f) Verbal abuse of a sexual nature;
- (g) Conditioning the provision of an aid, benefit, service, or an employment decision on submission to unwelcome behavior of a sexual nature;
- (h) 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:

- (a) Without consent,
- (b) By force,
- (c) By coercion, or
- (d) Upon an individual without capacity to consent because of:
 - (i) Age,
 - (ii) Temporary or permanent mental incapacity, or
 - (iii) 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:

- (a) Non-consensual streaming, audio or video recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without consent of all parties involved;
- (b) Engaging in any form of voyeurism (e.g., "peeping");
- (c) 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;
- (d) Arranging for others to have non-consensual sexual contact or penetration with a person;
- (e) Compelling another individual to touch their own or another individual's (third-party's) private parts without consent;
- (f) Threatening another person that you will commit a sex act against them;
- (g) Engaging in indecent exposure;
- (h) Noncompliance with expressed conditions for engaging in sexual activity (e.g., non-consensual condom removal).

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 Title IX and Gender Equity 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, the Directors of the Office of Civil Rights Compliance, the Title IX Coordinator, the vice presidents (including assistant and associate vice presidents), and the 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 Campus 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 Title IX and Gender Equity 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 Title IX and Gender Equity 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:

(a) Office of the Ombudsperson (for faculty, other instructors, staff, or students), 308 Jefferson Building;

(b) Employee Assistance Program (for faculty or staff), 121-50 University Services Building;

(c) University Counseling Service (for students), 3223 Westlawn;

(d) Women's Resource and Action Center (for faculty, other instructors, staff, students, or visitors), Bowman House;

(e) Rape Victim Advocacy Program (certified advocates) (for faculty, other instructors, staff, students, or visitors), 108 River Street;

(f) 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/Title IX and Gender Equity 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)

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 University of Iowa Police Department). 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

(Amended 9/2/22)

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: all staff in the Office of Civil Rights Compliance, 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.
 - (a) Faculty: All faculty, any title, who hold at least a 50 percent appointment.
 - (b) Staff (P&S): All regular staff, employed at least 50 percent or greater time,

- (c) Staff (merit): All regular staff, employed at least 50 percent or greater time,
- (d) Medical residents and fellows: All who hold at least a 50 percent appointment during the academic year,
- (e) Postdoctoral scholars/fellows: All who hold at least a 50 percent appointment during the academic year,
- (f) 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,
- (g) 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 (AAOs): 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 Title IX and Gender Equity website.

(6) The Equity Compliance unit in the Office of Civil Rights Compliance 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; 12/17/21; 1/28/22; 3/30/22; 9/2/22)

- 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 dismissal requirements within the Title IX regulations may apply as described below, but when a Title IX dismissal occurs, 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), Office of Civil Rights Compliance Discrimination Complaint Procedures, or procedures noted in this *Policy 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:

(a) 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.

(b) 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.

(a) 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.

(b) 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.

(c) 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:

(i) 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:

(A) An incident, and/or

(B) A pattern of alleged misconduct, and/or

(C) A culture/climate issue, based on the nature of the complaint.

(ii) If it does not, the Title IX Coordinator will determine if the complaint should be referred to the Office of Student Accountability, the Equity Investigations unit, or Human Resources staff for resolution under another policy.

(d) 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) Title IX 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), but is not subject to the Title IX procedural requirements. Though it is possible that a complaint or allegation may be dismissed from the formal grievance process altogether (see Complaint Dismissal, paragraph c(6) below), this section covers mandatory and discretionary dismissal under Title IX only.

(a) Mandatory Title IX dismissal. 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:

(i) 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

(ii) 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

(iii) The conduct did not occur against a person in the United States; and/or

(iv) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in an education program or activity of the University of Iowa.

(b) Discretionary Title IX dismissal. The University of Iowa **may** issue a Title IX dismissal of a formal complaint or any allegations in it if, at any time during the investigation or hearing:

(i) A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations; or

(ii) The respondent is no longer enrolled in or employed by the University of Iowa; or

(iii) Specific circumstances prevent the University of Iowa from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

(6) Complaint dismissal. All or some of the violations alleged in a complaint may be dismissed from a resolution process under this policy. Complaint dismissal is discretionary and may occur if, at any time during the resolution process, it is determined that:

(a) Any of the discretionary Title IX dismissal provisions as defined in II-4.23c(5)(b) are applicable; or

(b) The conduct alleged in the formal complaint would not constitute a violation of the policy, even if proved; or

(c) The university lacks jurisdiction, as defined in II-4.12.

(7) Upon Title IX dismissal and/or complaint dismissal, the University of Iowa will promptly send written notice of the dismissal. In the event of a Title IX dismissal without a complaint dismissal, the Office of Civil Rights Compliance will continue with a formal grievance process or an adaptable resolution toward resolution of a complaint.

(8) Title IX dismissal and complaint dismissal are both appealable, as is a decision not to dismiss, by any party at the conclusion of a formal grievance process.

(9) 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 not made in good faith will result in complaint dismissal..

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:

- (a) May be a friend, victim advocate, mentor, family member, or any other individual a party chooses to support them throughout the resolution process.
- (b) May be present with their advisee, at the advisee's discretion, at all stages of the process.
- (c) 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.
- (d) Someone who serves as a support advisor is not permitted to serve as a witness.

(2) Hearing advisor:

- (a) 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.
- (b) Primary role is to ask questions of parties and witnesses at the hearing in consultation with the advisee.
- (c) Participates only in the hearing and meetings related to the hearing.
- (d) Is not permitted to speak on behalf of the advisee outside the context of asking questions at the hearing.
- (e) Someone who serves as a hearing advisor is not permitted to serve as a witness.

(3) Legal advisor:

- (a) Complainants and respondents may have a legal advisor throughout the process. Legal advisors are not provided by the university.
- (b) May be present with their advisee, at the party's discretion, at all stages of the process.
- (c) If attending hearing, will serve as hearing advisor.
- (d) At the hearing, legal advisors may not communicate on behalf of their client outside the context of asking questions.
- (e) 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, any cross-examination 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 advisee⁴ 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:

(a) When the parties agree to resolve the matter through a mechanism like mediation, restorative practices, etc.;

(b) When the respondent accepts responsibility for violating policy, and desires to accept a sanction and end the formal grievance process; or

(c) 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:

- (a) The parties' amenability to adaptable resolution;
- (b) Likelihood of potential resolution, taking into account any power dynamics between the parties;
- (c) The parties' motivation to participate;
- (d) Civility of the parties;
- (e) Ongoing safety and risk analysis;
- (f) Disciplinary history;
- (g) Whether an emergency removal is needed;
- (h) Availability of an adaptable resolution facilitator with the needed skills to assist with the complaint;
- (i) Complaint complexity;
- (j) Goals of the parties;
- (k) Adequate resources to invest in adaptable resolution (time, staff, etc.)

The ultimate determination of whether adaptable resolution is available or successful is to be made by the Title IX Coordinator or designee. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by adaptable resolution are not appealable.

(3) Restorative practices, mediation, etc. (to be developed post interim period).

(4) Respondent. The respondent may accept responsibility for all of the alleged policy violations at any point during the resolution process, prior to a notice of outcome (Process A or Process B). If the respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether adaptable resolution can be used according to the criteria in that section above.

If adaptable resolution is applicable, the Title IX Coordinator will determine whether all parties and the University of Iowa are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX

Coordinator implements the accepted finding that the respondent is in violation of University of Iowa policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed-upon terms of resolution. When the parties cannot agree on all terms of resolution, the formal grievance process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the complainant and the community.

(5) Shuttle diplomacy. The Title IX Coordinator or the adaptable resolution facilitator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the University of Iowa. Negotiated resolutions are not appealable.

A negotiated resolution, reached through shuttle diplomacy, is a voluntary agreement between the parties to a resolution that addresses the party's concerns. The process starts with a proposed resolution from either party. The facilitator brings the proposed resolution to the other party for consideration. The party receiving the proposal may accept the resolution with no alterations, may propose alterations, conditions, or additional terms, or may reject the proposal outright and make a counterproposal. Proposed alterations, or the addition of conditions or terms, function as a rejection of the initial proposal and the creation of a counterproposal.

The facilitator will continue to bring counterproposals between parties until one of these conditions is met:

- (a) The parties achieve a mutually agreeable resolution;
- (b) One of the parties withdraws from participation;
- (c) The facilitator determines that an impasse has been reached.

The facilitator remains neutral between the parties. During the process, the facilitator may assist the parties in developing the terms of the resolution and may assist the parties in obtaining information from relevant units on the workability of proposed terms if they affect a party in a university context such as employment, the academic setting, or university housing.

(6) When the process is concluded, the facilitator will memorialize the outcome in a memorandum to both parties. If the parties achieved a mutually agreeable resolution, the Title IX Coordinator will review the memorandum to ensure it is workable and compliant with university policy. If the resolution conflicts with university policy, or is deemed unworkable, the parties may continue to work with the facilitator to negotiate a resolution as described above.

g. Grievance process pool. The formal grievance process relies on a pool of administrators ("the pool") to carry out the process. Members of the pool are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees. They are also listed in Title IX and Gender Equity's Annual Report. Changes that occur during the year will be updated on the website and included in the following year's distribution.

(1) Pool member roles. Members of the pool are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator:

(a) To provide appropriate intake of and initial guidance pertaining to complaints;

(b) To act as a university-appointed advisor to the parties during a hearing;

(c) To serve as an adaptable resolution facilitator;

(d) To perform or assist with initial assessment;

(e) To investigate complaints;

(f) To serve as a hearing facilitator (process administrator, no decision-making role);

(g) To serve as a hearing adjudicator;

(h) To serve as an appeal decision maker.

(2) Pool member appointment. The Title IX Coordinator appoints the pool,⁵ which acts with independence and impartiality. Appointments may be made to serve in all roles or only in one or more specific role.

h. Formal grievance process. The Title IX Coordinator will provide written notice of formal complaint (NOFC) to the respondent upon commencement of the formal grievance process. This facilitates the respondent's ability to prepare for the interview and to identify and choose their own advisor to accompany them. The NOFC is also copied to the complainant.

The NOFC will include:

(1) A specific and meaningful summary of all allegations,

(2) The identity of the involved parties (if known),

(3) The date and location of the alleged incident(s) (if known),

(4) The specific policies implicated,

(5) A description of the applicable procedures,

(6) A statement of the potential sanctions/responsive actions that could result,

(7) A statement that the University of Iowa presumes the respondent not responsible for the reported misconduct unless and until the evidence supports a different determination,

- (8) A statement that determinations of responsibility are made at the conclusion of the process,
- (9) A statement that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- (10) A statement about the University of Iowa's policy on retaliation,
- (11) Information about the privacy of the process,
- (12) Information on the opportunity for each party to have up to 2 advisors of their choosing and the requirement that parties have a hearing advisor in the event of a hearing
- (13) A statement informing the parties that the University of Iowa's policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- (14) Detail on how the party may request disability accommodations during the interview process,
- (15) A link to the University of Iowa's Resource and Referral Guide,
- (16) The name(s) of the investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the investigator(s) may have, and
- (17) An instruction to preserve any evidence that is directly related to the allegations.
- (18) A statement that the respondent can accept responsibility for violating the policy as charged, and accept sanctions, to end the formal grievance process at any point prior to the issuance of the notice of outcome.

Amendments and updates to the NOFC may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official University of Iowa records, or emailed to the parties' University of Iowa-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

- i. Resolution time line. The University of Iowa will make a good faith effort to complete the resolution process within a 90-business-day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.
- j. Appointment of investigators. Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints pool members to conduct the investigation usually within 2 business days of determining that an investigation should proceed.
- k. Ensuring impartiality. Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, investigator, and adjudicators may have no actual or apparent conflicts of

interest or bias for a party generally, or for a specific complainant or respondent.

The Title IX Coordinator will vet the assigned investigator to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the President.

The formal grievance process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the respondent engaged in a policy violation and evidence which supports that the respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a complainant, respondent, or witness.

A respondent is presumed not responsible for the reported misconduct unless and until the respondent is determined to be responsible for a policy violation by the applicable standard of proof.

- l. Investigation time line. Investigations are completed expeditiously, normally within 60 business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. The University of Iowa will make a good-faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.
- m. Delays in the investigation process and interactions with law enforcement. The University of Iowa may undertake a short delay in its investigation or adaptable resolution (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The University of Iowa will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. The University of Iowa will promptly resume its investigation and resolution process as soon as feasible. During such a delay, University of Iowa will implement supportive measures as deemed appropriate.

University of Iowa action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

- n. Role of the investigator. All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and before the investigative report is issued to fully

review and respond to all relevant and directly related evidence on the record.

The investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- (1) Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation.
- (2) Work with the Title IX Coordinator to identify all policies implicated by the alleged misconduct and notify the complainant and respondent of all of the specific policies implicated.
- (3) Prepare the initial notice of formal complaint (NOFC). The NOFC may be amended with any additional or dismissed allegations.

Notice should inform the parties of their right to have assistance of an advisor of their choosing, who may be present for all meetings.

- (4) Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation time frame, and order of interviews for all witnesses and the parties.
- (5) Meet with the complainant to finalize their interview/statement, if necessary.
- (6) Meet with the respondent to answer questions and conduct an interview.
- (7) Allow each party the opportunity to suggest witnesses and questions they wish the investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- (8) Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- (9) Take steps to obtain evidence, including electronic or photographic, as applicable.
- (10) Provide each interviewed party and witness an opportunity to review and suggest corrections to the investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings.
- (11) Complete the investigation promptly and without unreasonable deviation from the intended time line.
- (12) Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence.
 - (a) May include a summary of observations, assessment of evidence, or factors which may impact credibility for each party and witness.
 - (b) Appendices, including relevant nontestimonial evidence, will be included.
- (13) Prior to the conclusion of the investigation, provide the parties and their respective advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding.

(14) If the formal complaint is resolved using Process A, the investigator(s) gather(s), assess(es), and synthesize(s) evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.

Investigators may note which alleged policy violations, in whole or part, lack any evidence to support a conclusion that the policy was or was not violated.

(15) If the formal complaint is resolved using Process B, the investigator will prepare a written report and deliver it to the Title IX Coordinator, detailing the determination, rationale, and evidence used in support of their determination as well as any evidence disregarded. If applicable, the written report will also analyze evidence regarding self-defense claims and predominant aggressor claims. This includes findings of fact supporting the determination and conclusions regarding the application of the policy to the facts. Additionally, the investigator's report will include credibility assessments and any sanctioning recommendation. The determination will be based on the preponderance-of-evidence standard.

(16) Prior to the conclusion of the investigation, provide the parties and their respective advisors (if so desired by the parties) a secured electronic copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the university does not intend to rely in reaching a determination, for a 10-business-day review and comment period so that each party may meaningfully respond to the evidence.

(a) The parties may elect to waive the full 10 days.

(b) The investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses.

(17) The investigator(s) will note relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The investigator(s) should document all rationales for any changes made after the review and comment period.

(18) The investigator(s) share(s) the report with the Title IX Coordinator for their review and feedback. The investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their advisors through secure electronic transmission at least 10 business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report. The investigator will consult with the Title IX Coordinator when they believe all or part of a complaint should be dismissed based on dismissal provisions defined above in II-4.23(c)(5) or II-4.23(c)(6).

o. Role and participation of witnesses in the investigation. Witnesses (as distinguished from the parties) who are employees of the University of Iowa are expected to cooperate with and participate in the University of Iowa's investigation and resolution process.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, work arrangements) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. The University of Iowa will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the investigator(s), though not preferred.

- p. Recording of interviews. No unauthorized audio or video recording of any kind is permitted during investigation meetings. If investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.
- q. Evidentiary considerations in the investigation. Evidence regarding self-defense claims and predominant aggressor claims may be considered relevant. The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the complainant's prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- r. Referral for hearing. Provided that the complaint is not dismissed, resolved through Process B, or resolved through an adaptable resolution, or that the respondent has not accepted responsibility for violating the policy as charged, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing. The Title IX Coordinator will select an appropriate adjudicator from the pool.

The hearing cannot be less than 10 business days from the conclusion of the investigation — when the final investigation report is transmitted to the parties and the adjudicator — unless all parties and the adjudicator agree to an expedited timeline.

- s. Hearing adjudicator. The University of Iowa will designate an adjudicator from the pool, at the discretion of the Title IX Coordinator.

The adjudicator will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the pool sit in throughout the resolution process in the event that a substitute is needed for any reason.

Those who have served as investigators will be witnesses in the hearing and therefore may not serve as adjudicators. Those who are serving as advisors for any party may not serve as the adjudicator in that matter.

The Title IX Coordinator may not serve as an adjudicator in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Title IX Coordinator.

t. Evidentiary considerations in the hearing. Evidence regarding self-defense claims and predominant aggressor claims may be considered relevant. Any evidence that the adjudicator determines is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the complainant's prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

After post-hearing deliberation, the adjudicator renders a determination, based on the preponderance of the evidence, whether it is more likely than not that the respondent violated the policy as alleged.

u. Notice of hearing. No less than 10 business days prior to the hearing, the Title IX Coordinator or designee will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- (1) A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- (2) A description of how a party may request to move to an adaptable resolution
- (3) A statement that the respondent can accept responsibility for violating the policy as charged, accept sanctions, and end the formal grievance process at any point prior to the issuance of the notice of outcome.
- (4) The time, date, and location of the hearing.
- (5) Any technology that will be used to facilitate the hearing.
- (6) Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the adjudicator and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least 5 business days prior to the hearing.
- (7) A list of all those who will attend the hearing, along with an invitation to object to the appointed adjudicator. This must be raised with the Title IX Coordinator at least 2 business days prior to the pre-hearing meeting.
- (8) Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- (9) A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the adjudicator may reschedule the hearing.

(10) Notification that the parties may have the assistance of a hearing advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have a hearing advisor, and the University of Iowa will appoint one. Each party must have a hearing advisor present. There are no exceptions.

(11) A copy of all the materials provided to the adjudicator about the matter, unless they have been provided already.⁶

(12) An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least 7 business days prior to the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the respondent is still subject to this policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution time line followed by the University of Iowa and remain within the 90-business-day goal for resolution.

In these cases, if the respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal).

- v. Alternative hearing participation options. If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least 5 business days prior to the hearing.

The Title IX Coordinator or the hearing facilitator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the hearing facilitator know at least 5 business days prior to the hearing so that appropriate arrangements can be made.

- w. Pre-hearing preparation. The adjudicator, after any necessary consultation with the parties, investigator(s), and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent non-testimonial evidence, and the final investigation report to the parties at least 10 business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the investigator(s) (or have proffered a written statement or answered written questions), unless all parties and the adjudicator assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and adjudicator do not assent to the admission of evidence newly offered at the hearing, the adjudicator will delay the hearing and instruct that the investigation needs to be reopened to consider that evidence.

All objections to any adjudicator must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than 2 business days prior to the

pre-hearing meeting. Adjudicators will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

Any adjudicator who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and advisors in advance of the hearing. If an adjudicator is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the 10-business-day period prior to the hearing, the parties have the opportunity for continued review and written comment on the final investigation report and available evidence. That review and comment can be shared with the adjudicator at the pre-hearing meeting or at the hearing and will be exchanged between each party by the adjudicator.

- x. Pre-hearing meetings. The adjudicator may convene a pre-hearing meeting(s) with the parties and their advisors to invite them to submit the questions or topics they (the parties and their advisors) wish to ask or discuss at the hearing, so that the adjudicator can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The adjudicator must document and share their rationale for any exclusion or inclusion at this pre-hearing meeting.

The adjudicator, only with full agreement of the parties, may decide in advance of the hearing to stipulate to some facts including that certain witnesses do not need to be present if their testimony can be adequately summarized by the investigator(s) in the investigation report or during the hearing. This may include the admissibility of documents or other non-testimonial evidence, such as police reports.

At each pre-hearing meeting with a party and their advisor, the adjudicator will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the investigator(s) may be argued to be relevant. The adjudicator may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The pre-hearing meeting(s) will be recorded.

- y. Hearing procedures. At the hearing, the adjudicator has the authority to hear and make determinations on all allegations of sexual harassment, sexual misconduct, and/or related retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the sexual harassment, sexual misconduct, or related retaliation, even though those related allegations may not specifically fall within the Policy on Sexual Harassment and Sexual Misconduct. The adjudicator also has the authority to determine non-Title IX sexual misconduct violations that would result in suspension or expulsion; see paragraph II-4.23b(3)(a).

Participants at the hearing will include the adjudicator, the hearing facilitator, the investigator(s) who conducted the investigation, the parties (or up to three organizational representatives when an organization is the respondent), advisors to the parties, any called witnesses, and anyone providing authorized

accommodations or assistive services. Non-party witnesses are not allowed in the hearing except to testify.

The adjudicator will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The adjudicator will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the adjudicator and the parties and will then be excused.

- z. Joint hearings. In hearings involving more than one respondent or in which two or more complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each respondent with respect to each alleged policy violation.

- aa. The order of the hearing. The adjudicator explains the procedures and introduces the participants. The adjudicator, assisted by the hearing facilitator, then conducts the hearing according to the hearing script. They manage the hearing, the recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements. The 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, etc.

The investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the adjudicator and the parties (through their advisors).

Neither the parties nor the adjudicator should ask the investigator(s) their opinions on credibility, recommended findings, or determinations, and the investigators, advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the adjudicator will disregard it.

- ab. Testimony and questioning. Once the investigator presents their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the complainant, and then in the order determined by the adjudicator. The parties/witnesses will submit to questioning by the adjudicator and then by the parties through their hearing advisors.

All questions are subject to a relevance determination by the adjudicator. The hearing advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the adjudicator on request or agreed to by the parties and the adjudicator), the proceeding will pause to allow the adjudicator to consider it, and the adjudicator will determine whether the question will be permitted, disallowed, or rephrased.

The adjudicator may explore arguments regarding relevance with the advisors, if the adjudicator so chooses. The adjudicator will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The adjudicator will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The adjudicator will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The adjudicator has final say on all questions and determinations of relevance, subject to any appeal. The adjudicator may consult with legal counsel on any questions of admissibility. The adjudicator may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the adjudicator has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an investigator or adjudicator at the hearing, the adjudicator may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the adjudicator should not permit irrelevant questions that probe for bias.

- ac. Refusal to submit to cross-examination and inferences. If a party or witness chooses not to submit to questioning at the hearing, either because they do not attend or because they attend but refuse to participate in questioning, the adjudicator has the discretion to consider and assign weight to any relevant prior statement made by that party or witness in reaching a determination regarding responsibility. This includes statements recorded in documents in which the author of the document or the party or witness does not submit to questioning at the live hearing.

The adjudicator may not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer questions.

If charges of policy violations other than sexual harassment (as defined in the U.S. Department of Education Title IX Regulation 106.3) are considered at the same hearing, the adjudicator may consider all evidence deemed relevant.

If a party's advisor of choice refuses to comply with the University of Iowa's established rules of decorum for the hearing, the University of Iowa may require the party to use a different advisor. If a University of Iowa-provided advisor refuses to comply with the rules of decorum, the University of Iowa may provide that party with a different advisor to conduct cross-examination on behalf of that party.

- ad. Recording hearings. Hearings are recorded by the University of Iowa for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The adjudicator, the parties, their advisors, and appropriate administrators of the University of Iowa will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

- ae. Determination and standard of proof. The adjudicator will determine whether the respondent is responsible or not responsible for the policy violation(s) in question. The preponderance-of-the-evidence standard of proof is used. In determining whether to consider and what weight to give statements and documents which were not subject to cross-examination, the adjudicator should assess the totality of the circumstances, including whether there was the opportunity to ask questions during the investigation stage, whether the statement was a contemporaneous recording of the statement, and whether the absence of the opportunity to ask questions during the live hearing seriously impedes fundamental fairness, equitable process, or the ability to adequately assess the credibility of the statements. The adjudicator will prepare a written report and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination as well as any evidence disregarded. This includes findings of fact supporting the determination and conclusions regarding the application of the policy to the facts. If applicable, the written report will also analyze evidence regarding self-defense claims and predominant aggressor claims. Additionally, the adjudicator's report will include credibility assessments and any sanctioning recommendation. This report typically must be submitted to the Title IX Coordinator within 7 business days of the end of a hearing, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.
- af. Notice of outcome. Using the adjudicator's report, the investigator's finding, or a respondent's acceptance of responsibility for all charges, the Title IX Coordinator will prepare a notice of outcome. When the outcome includes a policy violation, the Title IX Coordinator will work with the sanctioning administrator to issue the notice of outcome. The Title IX Coordinator will then share the notice of outcome, including the determination of responsibility, rationale, and any applicable sanction(s) with the parties and their advisors within 5 business days of receiving the adjudicator's report (in cases where there is no policy violation in the determination), the sanctioning administrator's decision, or the investigator's finding.

The notice of outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University of Iowa records, or emailed to the parties' University of Iowa-issued email or otherwise approved account. Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

The notice of outcome will identify the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the University of Iowa from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The notice of outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University of Iowa is permitted to share such information under state or federal law; any sanctions issued which the University of Iowa is permitted to share according to state or federal law; and any remedies designed to ensure access to the University of Iowa's educational or employment program or activity, to the extent the University of Iowa is permitted to share such information under state or federal law (this detail is not typically shared with the

respondent unless the remedy directly relates to the respondent).

The notice of outcome will also include information on when the results are considered by the University of Iowa to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

ag. Statement of the rights of the parties.

- (1) The right to be treated with dignity and respect throughout any process resolving alleged misconduct.
- (2) The right to be fully informed about the policies and procedures available to address allegations of misconduct.
- (3) The right to be notified of counseling and support resources as well as the right to request disability accommodations and language translations at any stage of the resolution process.
- (4) The right to a prompt, thorough, reliable, equitable, and impartial response, investigation, and resolution of all credible reports of sexual harassment, sexual misconduct, and related retaliation made to the university.
- (5) The right to timely written notice of violations alleged in a formal complaint, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- (6) The right to timely written notice of any material adjustments to the allegations in a formal complaint (e.g., additional incidents or allegations, additional complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- (7) The right to a presumption of being not responsible for alleged misconduct and that no determination of responsibility will be made until the end of the grievance process.
- (8) The right to written notice of delays in the formal grievance process, including the cause of the delay and the anticipated time needed.
- (9) The right to request supportive measures and to provide input regarding the implementation of supportive measures that affect the party.
- (10) The right to be informed of options for notifying law enforcement authorities.
- (11) The right to preservation of privacy, to the extent possible and permitted by law.
- (12) The right to have up to two advisors providing support and assistance throughout the resolution process. Advisors may attend any meetings and interviews at which the party is entitled to be present.
- (13) The right not to have irrelevant prior sexual history or character admitted as evidence.

(14) The right to know the relevant and directly related evidence obtained and to respond to that evidence.

(15) The right to review and comment on a draft copy of the investigation report.

(16) The right to review the final investigation report, along with any directly related evidence not included in the report, at least 10 business days before a hearing.

(17) The right to a minimum of 10 business days' advance notice of a hearing and the right to a hearing advisor if a hearing is required. The parties are entitled to receive copies of any materials provided to the adjudicator not already provided to the parties.

(18) The right to have an advisor at a hearing who will ask questions of the other party and witnesses on their behalf, subject to a determination of relevance by the adjudicator.

(19) The right to simultaneous notification of the outcome including the specific findings and conclusions or subsequent changes on appeal with regard to each alleged policy violation and sanction.

(20) The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process and the procedures for doing so.

ah. Sanctions. The Title IX Coordinator will promptly, within 2 business days, transmit the adjudicator's report. The sanctioning administrator will consult with the Title IX Coordinator and decision maker (investigator or adjudicator) when there is a finding of responsibility on one or more of the allegations.

Factors considered when determining a sanction/responsive action may include, but are not limited to:

(1) The nature, severity of, and circumstances surrounding the violation(s);

(2) The respondent's disciplinary history;

(3) The need for sanctions/responsive actions to bring an end to the sexual harassment, sexual misconduct, and/or related retaliation;

(4) The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment, sexual misconduct, and/or related retaliation;

(5) The need to remedy the effects of the sexual harassment, sexual misconduct, and/or related retaliation on the complainant and the community;

(6) The impact on the parties;

(7) Any other information deemed relevant by the decision makers;

Previous disciplinary action of any kind involving the respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is not considered until the sanction stage of the process.

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal, if an appeal is not requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

(8) Student sanctions. The following are the usual sanctions⁷ that may be imposed upon students or organizations singly or in combination:⁸

(a) Warning: A formal statement that the conduct was unacceptable and a warning that further violation of any University of Iowa policy, procedure, or directive will result in more severe sanctions/responsive actions.

(b) Required counseling or educational program: A mandate to meet with and engage in either University of Iowa–sponsored or external services.

(c) Probation: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact directives, and/or other measures deemed appropriate.

(d) Suspension: Termination of student status for a definite period of time not to exceed 2 years and/or until specific criteria are met. During a period of suspension, the following notation will appear on the student’s official transcript: “Non-Academic Misconduct—Suspension from [semester] to [semester].” Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at the University of Iowa.

(e) Expulsion: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University of Iowa–sponsored events. This sanction will be noted permanently as a “Non-Academic Misconduct—Expulsion” on the student’s official transcript.

(f) Withholding diploma: The University of Iowa may withhold a student’s diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.

(g) Building or facility ban: A directive that prohibits or limits access to a building or facility.

(h) Activity restriction: A directive that prohibits or limits participation in an academic and/or non-academic program or activity.

(i) Organizational sanctions: Deactivation, loss of recognition, loss of some or all privileges (including University of Iowa registration) for a specified period of time.

(j) Other actions: In addition to or in place of the above sanctions, the University of Iowa may assign any other sanctions as deemed appropriate.

For further information see the student sanctioning guidelines:

(<https://dos.uiowa.edu/policies/sanctioning-guidelines-for-sexual-assault/>)

(9) Employee sanctions. Responsive actions for an employee who has engaged in sexual harassment, sexual misconduct, and/or related retaliation include:

(a) Formal written discipline,

(b) Performance improvement/management process,

(c) Required counseling,

(d) Required training or education,

(e) Loss of annual pay increase,

(f) Loss of oversight or supervisory responsibility,

(g) Demotion,

(h) Suspension with pay,

(i) Suspension without pay,

(j) Termination, and

(k) Other actions. In addition to or in place of the above sanctions, the University of Iowa may assign any other sanctions as deemed appropriate.

ai. Withdrawal, resignation, or completion of degree requirements while charges are pending.

(1) Students. Should a student respondent permanently withdraw from the University of Iowa, the resolution process typically ends with a complaint dismissal, as the University of Iowa has lost primary disciplinary jurisdiction over the withdrawn student. However, the university may continue the resolution process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy ongoing effects of the alleged sexual harassment, sexual misconduct, and/or retaliation.

Regardless of whether the complaint is dismissed or pursued to completion of the resolution process, the University of Iowa will continue to address and remedy systemic issues or concerns that may have contributed to the alleged violation(s) and ongoing effects of the alleged sexual harassment, sexual misconduct, and/or related retaliation. The student who withdraws or leaves while the process is pending is not eligible for re-enrollment as a student nor for employment with the University of Iowa unless specifically authorized for such reentry by the Dean of Students (regarding reentry as a student) or the Chief Human Resources Officer (regarding reentry as an employee), or both (regarding reentry in a dual role), all of which shall occur in consultation with the

Title IX Coordinator. Such authorization may be contingent on satisfaction of conditions for reentry. The Office of Civil Rights Compliance will retain the records of the withdrawing student's status, and that office will notify Admissions, the Office of the Registrar, and University Human Resources of this ineligibility, which applies to all campuses of the University of Iowa. In the event the student reenters without the requisite authorization, such reentry shall be rescinded on its discovery.

If the student respondent withdraws only from a semester or is not currently registered, the resolution process may continue; if found in violation, that student is not permitted to return to the University of Iowa unless and until all sanctions, if any, have been satisfied. Should the student decide to not participate in the resolution process, the process proceeds to a resolution absent their participation.

A student respondent who meets degree requirements after receiving a Notice of Formal Complaint may have a hold placed on their ability to graduate and/or to receive an official transcript/diploma pending resolution of the complaint.

(2) Employees. Should an employee respondent resign with unresolved allegations pending, the resolution process typically ends with a complaint dismissal, as the University of Iowa has lost primary disciplinary jurisdiction over the resigned employee. However, the university may continue the resolution process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy ongoing effects of the alleged sexual harassment, sexual misconduct, and/or retaliation.

Regardless of whether the complaint is dismissed or pursued to completion of the resolution process, the University of Iowa will continue to address and remedy systemic issues or concerns that may have contributed to the alleged violation(s) and ongoing effects of the alleged sexual harassment, sexual misconduct, and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for academic admission or rehire with the University of Iowa unless specifically authorized for such reentry by the Dean of Students (regarding reentry as a student), the Chief Human Resources Officer (regarding reentry as a staff member), the Executive Vice President and Provost (regarding reentry as a faculty member); all of which shall occur in consultation with the Title IX Coordinator. Such authorization may be contingent on satisfaction of conditions for reentry. The Office of Civil Rights Compliance will retain the records of the resigning employee's status, and that office will notify Admissions, the Office of the Registrar, University Human Resources, and the Executive Vice President and Provost of this ineligibility, which applies to all campuses of the University of Iowa. In the event the employee reenters without the requisite authorization, such reentry shall be rescinded on its discovery.

To the extent practicable, university responses to subsequent inquiries regarding employment references for that individual will include that the former employee resigned with a formal complaint of misconduct pending.

aj. Appeals. Any party may submit a request for appeal. Only requests for appeal submitted in writing to the Title IX Coordinator within 5 days of the delivery of the notice of outcome may be considered under these procedures. The Title IX Coordinator will transmit the request for appeal to the non-appealing party within 2 days of receiving a request for an appeal.

The Title IX Coordinator will deny any request for appeal not timely submitted, as well as any request for appeal that is not based on at least one of the grounds (see paragraph aj(2) below).

(1) Appeal officer.

(a) Student respondent. For cases involving a student respondent that involve suspension or expulsion, the appropriate university office to review the appeal is the Office of the Executive Vice President and Provost. The Provost also reviews cases dismissed by the investigator or adjudicator that would have risen to the level of a suspension or expulsion had the allegations been founded. For all other cases involving a student respondent, the appropriate university office to review the appeal is the Office of the Vice President for Student Life.

(b) P&S staff, merit staff, or visitor respondent. For cases involving a P&S staff member or visitor respondent, the appropriate university office to review the appeal is University Human Resources. For cases involving a merit staff member respondent, the appropriate university office to review the appeal is University Human Resources—Employee and Labor Relations.

(c) Faculty member respondent. For cases involving a faculty member respondent, the appropriate university office to review the appeal is the Office of the Executive Vice President and Provost.

(2) Grounds for appeal. The Title IX Coordinator will review the request for appeal to determine if the request is based on one of the grounds for appeal. This review is not a review of the merits of the appeal, but solely a determination whether the request is based on at least one of the grounds.

Appeals are limited to the following grounds:

(a) Procedural irregularity that affected the outcome of the matter;

(b) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;

(c) The Title IX Coordinator, investigator(s), or adjudicator(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific complainant or respondent that affected the outcome of the matter; and/or

(d) The decision, whether regarding responsibility or sanction or both, was not supported by substantial evidence when viewed as a whole.

If the request for appeal is not based on the grounds in this policy, it will be denied by the Title IX Coordinator, who will notify the parties and their advisors in writing or email of the denial and the rationale.

(3) Response to appeal. If a timely submitted request for appeal is based on any of the grounds in this policy, then the Title IX Coordinator will notify all party(ies) and their advisors, and, when appropriate, the investigators, adjudicator, and sanctioning administrator that an appeal is proceeding and will provide each of them the request for appeal by mail, email, and/or hard copy as appropriate.

No later than 5 business days after delivery of the appellant's request for appeal, each of the other party(ies), as well as the investigator, adjudicator, and sanctioning administrator, may submit a response to the portion of the appeal that involves them. All responses will be forwarded by the Title IX Coordinator to all parties.

Once the time to submit a response to appellant's request for appeal has lapsed, no party may submit any new requests for appeal. The Title IX Coordinator will forward all responses to the appeal officer for consideration with respect to the request for appeal.

(4) Review of appeal record. The appeal officer will consider the following documents as a part of the complete appeal record:

- (a) The request for appeal;
- (b) The case file, including the recording of any hearing; and
- (c) All responses to the notice of appeal.

(5) Appeal outcome. Barring exigent circumstances, the appeal officer will render a decision ("appeal outcome") no later than 10 business days following the appeal officer's receipt of the complete appeal record.

The appeal outcome will be in writing and will include one or more of the following determinations based on the grounds included in the notice of appeal:

- (a) Uphold or reverse, in whole or in part, the decision on responsibility;
- (b) Uphold, reverse, or modify disciplinary sanctions, if imposed; and/or
- (c) Remand all or part of the matter to remedy procedural errors, including bias or conflict of interest, or consider new evidence (with or without specific direction).

The appeal officer will send the appeal outcome to the Title IX Coordinator, who will send notice of appeal outcome to all parties simultaneously. The notice of appeal outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration (if applicable), any sanctions that may result which the University of Iowa is permitted to share according to state and federal law, and the rationale supporting the essential findings to the extent the University of Iowa is permitted to share under state and federal law.

Notice of appeal outcome will be made in writing (including email) and may be delivered by

one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' university-issued email or otherwise approved account(s). Once mailed, emailed, and/or received in person, notice will be presumptively delivered.

(6) Sanctions status during the appeal. Any sanctions imposed as a result of the hearing are stayed during the appeal process described above. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, then emergency removal procedures (detailed above) for doing so must be permitted within 48 hours of implementation.

In cases where the original sanctions included separation, the University of Iowa may place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal.

(7) Appeal considerations.

(a) Appeals are not intended to provide for a full re-hearing, nor for a de novo review of the evidence of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.

(b) Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.

(c) An appeal is not an opportunity for the appeal officer to substitute their judgment for that of the adjudicator merely because they disagree with the finding and/or sanction(s).

(d) The appeal officer may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained by the Title IX Coordinator.

(e) Appeals granted based on new evidence should normally remand the matter to the original investigator(s) and/or adjudicator for consideration of the new evidence.

(f) When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction may be appealed one final time on the grounds listed above and in accordance with these procedures.

(g) In rare cases where a procedural error cannot be cured by the original adjudicator (as in cases of bias), the appeal may order a new hearing with a new adjudicator.

(h) The results of a new hearing may be appealed, once, on any of the appeal grounds.

(i) In cases in which the appeal results in reinstatement to the University of Iowa or resumption of privileges, all reasonable attempts will be made to restore the respondent to their prior status.

ak. Long-term remedies/other actions. Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the sexual harassment, sexual misconduct, and/or related retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- (1) Referral to counseling and health services,
- (2) Referral to the Employee Assistance Program,
- (3) Education to the individual and/or the community,
- (4) Permanent alteration of housing assignments,
- (5) Permanent alteration of work arrangements for employees,
- (6) Provision of campus safety escorts,
- (7) Climate surveys,
- (8) Policy modification and/or training,
- (9) Provision of transportation accommodations,
- (10) Implementation of long-term contact limitations between the parties,
- (11) Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the University of Iowa to the respondent to ensure no effective denial of access to an education program or activity.

The University of Iowa will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the university's ability to provide these services.

al. Failure to comply with sanctions and/or interim and long-term remedies and/or responsive actions. All respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the time frame specified by the final sanctioning administrator or appeal officer.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University of Iowa and may be noted on a student's official transcript as determined by the Director of the Office of Student Accountability in consultation with the Title IX Coordinator.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Director of the Office of Student Accountability in consultation with the Title IX Coordinator.

am. Record keeping. The University of Iowa will maintain for a period of at least 7 years records of:

- (1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- (2) Any disciplinary sanctions imposed on the respondent;
- (3) Any remedies provided to the complainant or respondent designed to restore or preserve equal access to the University of Iowa's education program or activity;
- (4) Any appeal and the result;
- (5) Any adaptable resolution and the result;
- (6) All materials used to train Title IX coordinators, investigators, adjudicators, and any person who facilitates an adaptable resolution process; and
- (7) Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - (a) The basis for all conclusions that the response was not deliberately indifferent;
 - (b) Any measures designed to restore or preserve equal access to the University of Iowa's education program or activity; and
 - (c) If no supportive measures were provided to the complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The University of Iowa will also maintain any and all records in accordance with state and federal laws.

an. Disabilities accommodations in the resolution process. The University of Iowa is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University of Iowa's resolution process.

Anyone needing such accommodations or support should contact the Office of Student Disability Services (<https://sds.studentlife.uiowa.edu/>) or Faculty and Staff Disability Services (<https://hr.uiowa.edu/support/faculty-and-staff-disability-services>), who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, will determine which accommodations are appropriate and necessary for full participation in the process.

ao. Revision of this policy and procedures. This policy and procedures supersede any previous policies addressing sexual harassment, sexual misconduct, and/or related retaliation and will be reviewed and updated annually by the Title IX Coordinator. The University of Iowa reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may also make minor modifications to the procedure applied to a particular complaint that does not materially favor one party, such as to accommodate summer schedules.

If government laws or regulations change — or court decisions alter — the university requirements in a way that impacts the policy and procedures, the policy and procedures will be construed to comply with the most recent government regulations or holdings until the Title IX Coordinator posts changes to the policy and procedures online (on the institutional website, with the appropriate effective date identified).

The policy and procedures do not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

The policy and procedures are effective August 14, 2020.

Notes

1. Anywhere this procedure indicates “Title IX Coordinator,” the University of Iowa may substitute a trained designee.
2. If circumstances require, the President or Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or should the Coordinator be otherwise unavailable or unable to fulfill their duties.
3. These dismissal requirements are mandated by the 2020 Title IX regulations, 34 CFR 106.45.
4. Subject to the state law provisions or university policy above.
5. This does not preclude the University of Iowa from having all members of the pool go through an application and/or interview/selection process.
6. The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.
7. University of Iowa policies on transcript notation will apply to these proceedings.
8. Subject to University of Iowa's Code of Student Life.

