Draft Interim Procedure for Alleged Violations of the Sexual Harassment and Sexual Misconduct Policy

1. Overview

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 Mandated Reporter (Academic or Administrative Officer) by applying these procedures, which includes three possible methods for resolution known as “Process A,” “Process B,” and “Process C.”

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

Process A is a Formal Grievance Process that includes an investigation and live hearing.

Process B includes the steps involved in facilitating an adaptable resolution and therefore, resolving a complaint informally.

Process C is a Formal Grievance Process that includes an investigation and does not include a live hearing.

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 Procedure, Equal Opportunity and Diversity Complaint Discrimination Procedure, or procedures noted in the Operations Manual.

2. Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, 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 C based on the following considerations:
   a. Process A applies in cases where the alleged behavior meets the definition of sexual harassment as defined in the U.S. Department of Education Title IX Regulation 106.45 or the alleged behavior, if true, could result in a student being suspended or expelled from the University of Iowa.

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1 Anywhere this procedure indicates “Title IX Coordinator,” the University of Iowa may substitute a trained designee.
b. Process C applies in cases where the alleged behavior falls outside the definition of sexual harassment as defined by Title IX regulation and, if true, would not result in a student being suspended or expelled but nonetheless does meet the definition of prohibited behavior within the Interim Policy on Sexual Harassment and Sexual Misconduct.

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, their potential recurrence, or their effects.

3. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of the Interim Policy on Sexual Harassment and Sexual Misconduct, the Title IX Coordinator\(^2\) engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

- The Title IX Coordinator reaches out to the Complainant to offer supportive measures and explain resolution options.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- 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.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an adaptable resolution option, or a formal investigation and grievance process.
  - If only a supportive and remedial response is 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.
  - If an Adaptable Resolution is preferred, the Title IX Coordinator assesses whether the complaint is suitable for Adaptable Resolution, 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.
  - 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 Interim Policy on Sexual Harassment and Sexual Misconduct:
    - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process under Process A or Process C, directing the investigation to address:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue, based on the nature of the complaint.
    - If it does not, the Title IX Coordinator will determine if the complaint should be referred to the Office of Student Accountability, the Office of Equal Opportunity or Human Resources staff for resolution under another policy.

\(^2\) 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 the Coordinator be otherwise unavailable or unable to fulfill their duties.
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.

a. 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” as a means to indicate that something has been determined outside the scope of Title IX. If a complaint is dismissed, it may still be resolved through a Formal Grievance Process (Process A or Process C). Though it is possible that a complaint or allegation could be dismissed from the Formal Grievance Process altogether, this section covers mandatory and discretionary dismissal under Title IX only. A formal complaint, or any allegations therein, must be dismissed in accordance with Title IX if, at any time during the investigation or hearing, it is determined that:

1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined in Part 106.3 of the U.S. Department of Education’s Title IX Regulations, even if proved; and/or

2) The conduct did not occur in an educational program, activity, or workplace controlled by the University of Iowa (including buildings or property controlled by recognized student organizations), and/or the University of Iowa does not have control of the Respondent; and/or

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

4) At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program, activity or workplace of the University of Iowa.

The University of Iowa may dismiss a formal complaint or any allegations in it if, at any time during the investigation or hearing:

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

2) The Respondent is no longer enrolled in or employed by the University of Iowa; or

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

Upon any dismissal, the University of Iowa will promptly send written notice of the dismissal and may continue with a Formal Grievance Process or an Adaptable Resolution.

The decision to dismiss or not to dismiss is appealable by any party at the conclusion of a Formal Grievance Process. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

4. Counterclaims

³ These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45.
The University of Iowa is obligated to ensure that the grievance process is not abused for retaliatory purposes. The University of Iowa permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent may be made in good faith, but are, on occasion, also made for purposes of retaliation. Counterclaims will be dismissed if not made in good faith.

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

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

5. 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.

Support Advisor

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

Hearing Advisor

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

Legal Advisor

- Complainants and Respondents may have a legal advisor throughout the process. Legal advisors are not provided by the University.
- May be present with their advisee, at the Party’s discretion, at all stages of the process.
- If attending hearing, will serve as Hearing Advisor.
- May not communicate on behalf of their client outside the context of asking questions at the hearing.
• 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.

a. Hearing Advisors/University of Iowa-Appointed Advisor

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties’ Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have a Hearing Advisor, the University of Iowa will appoint someone for the limited purpose of conducting any cross-examination.

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 non-participation of the advised party in the hearing itself. Questioning of the parties and witnesses will also be conducted by the Adjudicator during the hearing. A list of Hearing Advisors in the University’s Pool can be found here, XXXXX.

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.

b. Expectations of Advisors University of Iowa

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

4 Subject to the state law provisions or University policy above.
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. Subsequently, the Title IX Coordinator will determine how to address the Advisor’s non-compliance and future role.

c. 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 comply with that request.

d. 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 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.

e. 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 two (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 two (2) business days before the hearing.
As a public entity, University of Iowa fully respects and accords the Weingarten rights of 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.

6. 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. 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. University of Iowa encourages parties to discuss this with their Advisors before doing so.

a. Adaptable Resolution Options

Adaptable Resolution can include three different approaches:

- When the parties agree to resolve the matter through a mechanism like mediation, restorative practices, etc.;
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
- 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.

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 reported misconduct 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.

b. Considerations for Proceeding with an Adaptable Resolution (Process B)
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:

- The parties’ amenability to Adaptable Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties’ motivation to participate;
- Civility of the parties;
- Ongoing safety and risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Availability of an Adaptable Resolution facilitator with the needed skills to assist with the complaint;
- Complaint complexity;
- Goals of the parties;
- 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. 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.

c. Restorative Practices, Mediation, etc.  
(TO BE DEVELOPED POST INTERIM PERIOD)

d. 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 C) 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.
d. 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 settlement, 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 functions 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:

1. The parties achieve a mutually agreeable resolution
2. One of the parties withdraws from participation
3. The facilitator determines that an impasse has been reached

The facilitator is a 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.

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 for compliance 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.

7. 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 the Office of the Sexual Misconduct Response Coordinator’s Annual Report. Changes that occur during the year will be updated on the website and included in the following year's distribution. The list of Pool members and a description of the Pool can be found at XXXX.

a. 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:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties during a hearing
- To serve in a facilitation role in an Adaptable Resolution inappropriately trained in appropriate resolution modalities (e.g., mediation, restorative practices)
- To perform or assist with initial assessment
To investigate complaints
To serve as a hearing facilitator (process administrator, no decision-making role)
To serve as a Hearing Adjudicator
To serve as an Appeal Decision-maker

b. Pool Member Appointment

The Title IX Coordinator appoints the Pool5, which acts with independence and impartiality. Appointments may be made to serve in all roles or only in one or more specific role.


The Title IX Coordinator will work with the Office of Equal Opportunity and Diversity or the Office of Student Accountability to provide written notice of the investigation and allegations (the “NOIA”) 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 NOIA is also copied to the Complainant, who, when possible, is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A specific and meaningful summary of all allegations,
- The identity of the involved parties (if known),
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- 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,
- A statement that determinations of responsibility are made at the conclusion of the process and 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,
- A statement about the University of Iowa’s policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have a Hearing Advisor and up to two Advisors of their choosing,
- 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,
- Detail on how the party may request disability accommodations during the interview process,
- A link to the University of Iowa’s Information and Referral Brochure,
- 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
- An instruction to preserve any evidence that is directly related to the allegations.

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.
Amendments and updates to the NOIA 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.

9. Resolution Timeline

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.

10. Appointment of Investigators

Once the decision to commence a formal investigation is made, the Title IX Coordinator, in consultation with the Office of Student Accountability or the Office of Equal Opportunity and Diversity, appoints Pool members to conduct the investigation usually within two (2) business days of determining that an investigation should proceed.

11. 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.

12. Investigation Timeline

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Investigations are completed expeditiously, normally within sixty 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.

13. Delays in the Investigation Process and Interactions with Law Enforcement

The University of Iowa may undertake a short delay in its investigation (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.

14. The 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 evidence on the record.

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

- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- 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
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA 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.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary.
- Meet with the Respondent to answer questions and conduct an interview.
- 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.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Take steps to obtain evidence, including electronic or photographic, as applicable.
- 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.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included.
  - May include a summary of observations, assessment of evidence, or factors which may impact credibility for each party and witness.
  - Appendices including relevant physical or documentary evidence will be included.
- 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.
- If the formal complaint is resolved using “Process A”, [The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report]
  - May note which alleged policy violations, in whole or part, lack any evidence to support a finding of responsibility.
- If the formal complaint is resolved using “Process C”, the investigator will make conclusions, engage in policy analysis, make a credibility analysis, and make a final determination on whether there was or was not a policy violation. The determination will be based on the preponderance of evidence standard.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic copy or hard 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 Recipient does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence.
  - The parties may elect to waive the full ten days.
  - Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant’s Advisor, Respondent’s Advisor).
  - 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.
- 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.
- The Investigator(s) shares 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 ten (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 in Section 3.

15. 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) 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. If a witness submits a written statement but does not intend to be and is not present for questioning at a hearing, their written statement may not be used as evidence.

16. 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.

17. Evidentiary Considerations in the Investigation

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.

18. Referral for Hearing

Provided that the complaint is not resolved through Adaptable Resolution, 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 ten (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.
19. 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.

20. Evidentiary Considerations in the Hearing

Any evidence that the Adjudicator determine(s) 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.

21. Notice of Hearing

No less than ten (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:

- 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.
- A description of how a party may request to move to “Process B” by requesting an Adaptable Resolution.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- 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 five (5) business days prior to the hearing.

- 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 two (2) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party’s or witness’s testimony and any statements given prior to the hearing will not be considered by the Adjudicator. For compelling reasons, the Adjudicator may reschedule the hearing.
- 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.
- A copy of all the materials provided to the Adjudicator about the matter, unless they have been provided already.\(^6\)
- 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 seven (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 timeline 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).

**22. 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 five (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 five (5) business days prior to the hearing so that appropriate arrangements can be made.

**23. Pre-Hearing Preparation**

\(^6\) The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.
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 ten (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 re-opened to consider that evidence.

The parties will be given the name of the Adjudicator at least five (5) business days in advance of the hearing. 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 one day prior to the hearing. 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).

The Title IX Coordinator will give the Adjudicator a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. 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 ten (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.

24. Pre-Hearing Meetings

The Adjudicator may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or 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 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.

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.

25. 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 (Process C).

Participants at the hearing will include the Adjudicator, the Hearing Facilitator, the Investigator(s) who conducted the investigation, the parties (or up to three (3) 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.

26. Joint Hearings

In hearings involving more than one Respondent or in which two (2) 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.

27. 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). The Investigator(s) will be present during the entire hearing.
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.

28. 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.

29. 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 the meeting, or they attend but refuse to participate in questioning, then the Adjudicator may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Adjudicator must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some questions, only statements related to the questions they refuse to answer cannot be relied upon.
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 Part 106.3) are considered at the same hearing, the Adjudicator may consider all evidence deemed relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Hearing Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

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.

30. 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.

31. Decision-making, 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. The Adjudicator will prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments and any sanctioning recommendation. This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) 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.

The Title IX Coordinator will promptly, within 2 business days, transmit the Adjudicator’s decision and provide input to the Sanctioning Administrator when there is a finding of responsibility on one or more of the allegations.

32. Notice of Outcome

Using the Adjudicator’s deliberation statement or the Investigator’s finding, 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 letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within five (5) business days of receiving the Adjudicator’s deliberation statement, the Sanctioning Administrator’s decision, or the Investigator’s report.
The Notice of Outcome will then 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 provided to the Complainant 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.

33. Statement of the Rights of the Parties (see Appendix C)

34. Sanctions

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

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent’s disciplinary history
- The need for sanctions/responsive actions to bring an end to the sexual harassment, sexual misconduct and/or related retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment, sexual misconduct, and/or related retaliation
- The need to remedy the effects of the sexual harassment, sexual misconduct, and/or related retaliation on the Complainant and the community
- The impact on the parties
- 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 without an appeal being 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.

a. Student Sanctions

The following are the usual sanctions\(^7\) that may be imposed upon students or organizations singly or in combination\(^8\):

- **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.
- **Required Counseling or Educational Program**: A mandate to meet with and engage in either University of Iowa-sponsored or external services.
- **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 will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- **Suspension**: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at University of Iowa.
- **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 Conduct Expulsion on the student’s official transcript.
- **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.
- **Building or Facility Ban**: A directive that prohibits or limits access to a building or facility.
- **Activity Restriction**: A directive that prohibits or limits participation in an academic and/or non-academic program or activity.
- **Organizational Sanctions**: Deactivation, loss of recognition, loss of some or all privileges (including University of Iowa registration) for a specified period of time.
- **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/)

b. Employee Sanctions

Responsive actions for an employee who has engaged in sexual harassment, sexual misconduct, and/or related retaliation include:

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\(^7\) University of Iowa policies on transcript notation will apply to these proceedings.

\(^8\) Subject to University of Iowa’s Organizational Code of Conduct.
• Formal Written Discipline
• Performance Improvement/Management Process
• Required Counseling
• Required Training or Education
• Loss of Annual Pay Increase
• Loss of Oversight or Supervisory Responsibility
• Demotion
• Suspension with pay
• Suspension without pay
• Termination
• Other Actions: In addition to or in place of the above sanctions, the University of Iowa may assign any other sanctions as deemed appropriate.

35. Withdrawal or Resignation While Charges Pending

Students: If a student has an allegation pending for violation of the Sexual Harassment & Sexual Misconduct Policy, the University of Iowa may place a hold on a student’s ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University of Iowa, the resolution process ends, as the University of Iowa no longer has disciplinary jurisdiction over the withdrawn student.

However, the University of Iowa will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment, sexual misconduct, and/or related retaliation. The student who withdraws or leaves while the process is pending may not return to the University of Iowa. Such exclusion applies to all campuses of University of Iowa. A hold will be placed on their ability to be readmitted. They may also be barred from University of Iowa property and/or events.

If the student Respondent only withdraws or is not currently registered (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to University of Iowa unless and until all sanctions have been satisfied.

During the resolution process, the University of Iowa may put a hold on a responding student’s transcript or place a notation on a responding student’s transcript or dean’s disciplinary certification that a disciplinary matter is pending.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as the University of Iowa no longer has disciplinary jurisdiction over the resigned employee.

However, the University of Iowa will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged sexual harassment or sexual misconduct.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the
University of Iowa or any campus of the University of Iowa, and the records retained by the Title IX Coordinator will reflect that status. Should the employee want to reapply, they should contact the Title IX Coordinator to determine what steps would be necessary to resolve the complaint.

36. Appeals

Any party may submit a request for appeal (“Request for Appeal”). Only Requests for Appeal submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome may be considered under these procedures. The Title IX Coordinator will transmit a timely Request for Appeal and the case file to the appropriate Appeal Officer (see Section a below) within 3 days of receiving the Request for 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 Section b. below).

a. Appeal Officer

(1) 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 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.

(2) 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.

(3) Faculty Member Respondent. For cases involving a Faculty member Respondent, the appropriate University office to review the appeal is the Office of the Provost.

b. 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:

1. Procedural irregularity that affected the outcome of the matter;
2. 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;
3. 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
4. Decision, whether regarding responsibility or sanction or both, was not supported by substantial evidence when viewed as a whole.
5. 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.

c. 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 and/or the Adjudicator 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 five (5) business days after delivery of Appellant’s Request for Appeal, each of the other party(ies) 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 for review and comment.

Once the time to submit a response to Appellant’s Request for Appeal has lapsed, no party may submit any new requests for appeal.

d. Appeal Outcome

The Appeal Officer will render a decision in no more than five (5) business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard. The Appeal Officer will send the decision (“Appeal Outcome”) to the Title IX Coordinator.

The Title IX Coordinator 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. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

e. 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.

f. Appeal Considerations

1. 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.

2. 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.
3. 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).

4. 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.

5. 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.

6. 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.

7. 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.

8. The results of a new hearing may be appealed, once, on any of the appeal Grounds.

9. 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.

37. 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:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- 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 Recipient to the Respondent to ensure no effective denial of educational access.

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.

38. 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 timeframe 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.

39. Recordkeeping

The University of Iowa will maintain for a period of at least seven 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 Informal Resolution and the result;
6. All materials used to train Title IX Coordinators, Investigators, Adjudicators, and any person who facilitates an Informal 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.

40. 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, determine which accommodations are appropriate and necessary for full participation in the process.
41. 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 make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective August 14th, 2020.