POLICY: Draft Interim Policy on Sexual Harassment and Sexual Misconduct

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

- Rape Victim Advocacy Program (RVAP) — confidential, certified victim advocacy services, 319-335-6000
- Domestic Violence Intervention Program (DVIP) — confidential, certified victim advocacy services, 319-351-1043 or 800-373-1043
- Emergency Department, University of Iowa Hospitals & Clinics — confidential medical services, 319-356-2233
- University of Iowa Department of Public Safety — law enforcement services, 319-335-5022, or 911 from any campus phone

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

1. Glossary

- Academic and Administrative Officers (AAO) are those individuals appointed by the university who are required to report actual or suspected sexual harassment (stalking, dating and domestic violence) sexual misconduct, or related retaliation to the Office of the Sexual Misconduct Response Coordinator within two business days. For a list of who is appointed an AAO see section 16.

- Adaptable Resolution is a voluntary informal process that may encompass a broad range of conflict resolution strategies, including but not limited to, arbitration, mediation, or 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 C. Adaptable Resolution may not be appropriate in all circumstances. During the interim period of this policy, Adaptable Resolution will be limited to negotiated resolution between the parties.

- Adjudicator means the decision-maker who makes findings and the final determination in the context of a hearing under this policy and associated procedures.

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1 ATIXA 2020 One Policy, Two Procedures Model use and adaptation of this model with citation to ATIXA is permitted through a limited license to University of Iowa all other rights reserved. ©2020. ATIXA
• **Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

• **Complainant** means an individual who is alleged to be the victim of conduct that could constitute harassment or misconduct based on a protected class; or retaliation for engaging in a protected activity.

• **Complaint (formal)** means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or sexual misconduct or retaliation for engaging in a protected activity against a Respondent and requesting that the University investigate the allegation.

• **Confidential Resource** means a person from a designated organization or University office who is not a Mandated Reporter of notice of sexual harassment, sexual misconduct, and/or retaliation (irrespective of Clery Act Campus Security Authority status). Designated confidential resources are listed on page XX.

• **Day** means a business day when the University of Iowa is in normal operation.

• **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.

• **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.

• **Final Determination:** A conclusion by a preponderance of the evidence standard that the alleged conduct occurred and whether it did or did not violate policy.

• **Finding** is a conclusion by a preponderance of the evidence standard that the conduct did or did not occur as alleged.

• **Formal Grievance Process** means “Process A,” and “Process C” a method of formal resolution designated by the University of Iowa to address conduct that falls within the policies included below.²

² The Formal Grievance Process complies with requirements of 34 CFR Part 106.45.
• **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).

• **Investigator** means the person or persons charged by the University of Iowa with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence for sexual harassment matters defined within “Process A” and the person or persons charged with making finding of fact and final determination in the context of “Process C”.

• **Mandated Reporter** means an employee of the University of Iowa who is obligated by policy to share knowledge, notice, and/or reports of harassment, and/or retaliation with the Title IX Coordinator in the Office of the Sexual Misconduct Response Coordinator.³

• **Notice** means that an employee, student, or third-party informs the Title IX Coordinator of the alleged occurrence of harassing, misconduct, and/or retaliatory conduct.

• **Parties** include the Complainant(s) and Respondent(s), collectively.

• **Process A** means the Formal Grievance Process that includes an investigation and live hearing detailed in section XX (procedures forthcoming).

• **Process B** means the Adaptable Resolution Procedures detailed in section XX (procedures forthcoming).

• **Process C** means the Formal Grievance Process that does not include a live hearing but does include findings of fact and a determination made by an investigator detailed in section XX (procedures forthcoming).

• **Remedies** are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University of Iowa’s educational program, activities, and workplace.

• **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or sexual misconduct; or retaliation for engaging in a protected activity.

• **Resolution** means the result of an Adaptable Resolution or Formal Grievance Process.

³ 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.
- **Sanction** means a consequence imposed by the University on a Respondent who is found to have violated this policy.

- **Sanctioning Administrator** is the person who is responsible for determining and implementing corrective measures, sanctions and may institute formal disciplinary action, consistent with University procedures.

- **Sexual Harassment** is the category of offenses compliant with the U.S. Department of Education Title IX Regulation Part 106.30 including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See section XX, for greater detail.

- **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.

- **Student** is any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University of Iowa.

- **Title IX Coordinator** is the University of Iowa designated official to ensure compliance with Title IX and the University’s Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

- **Title IX Team** refers to the Title IX Coordinator, any Deputy Coordinators, Response Coordinators, and any member of the Grievance Process Pool.

- **University of Iowa** means a postsecondary education program that is a recipient of federal funding.

### 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 subverts the university’s mission and threatens 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.

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4 Anywhere this policy indicates “Title IX Coordinator,” the University may substitute a trained designee.
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, andremedying 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.

3. Applicable Scope

The core purpose of this policy is the prohibition of all forms of sexual harassment, sexual misconduct and related retaliation. Sometimes, these involve exclusion from activities, such as admission, athletics, or employment. Other times, they can encompass sexual assault, stalking, sexual exploitation, dating violence or domestic violence. 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 “Process C” 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 procedures 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.

[Forthcoming]

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.

5. Independence and Conflict-of-Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.
To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the University President [319-335-3549; president@uiowa.edu]. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or committed by the Title IX Coordinator should be reported to the University President [319-335-3549; president@uiowa.edu] or designee. Reports of misconduct or committed by any other Title IX Team member should be reported to the Title IX Coordinator.

6. Administrative Contact Information

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

Name: Monique DiCarlo
Title IX Coordinator
Office of the Sexual Misconduct and Title IX Coordinator
Location/Address: 455 Van Allen Hall
Phone: (319) 335-6200
Email: osmrc@uiowa.edu
Web: https://osmrc.uiowa.edu

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

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

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

**Office for Civil Rights (OCR)**
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov

**Iowa Civil Rights Commission**
Grimes State Office Building
400 E. 14th Street
Des Moines, IA 50319-0201
515-281-4121, 1-800-457-4416
Fax 515-242-5840
Email: icrc@iowa.gov
Web: [https://icrc.iowa.gov/](https://icrc.iowa.gov/)

For external complaints involving employees: [Equal Employment Opportunity Commission (EEOC)](https://www.eeoc.gov)

**7. Notice/Complaints of Sexual Harassment, Sexual Misconduct and/or Related Retaliation**

Notice or complaints of sexual harassment, sexual misconduct and/or related retaliation may be made using any of the following options:

1. File a complaint with, or give verbal notice to, the Title IX Coordinator at the Office of the Sexual Misconduct Response Coordinator (319-335-6200; osmrc@uiowa.edu). Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator at the Office of the Sexual Misconduct Response Coordinator.
2. Report online, using the reporting form posted at [https://osmrc.uiowa.edu/report-problem-0](https://osmrc.uiowa.edu/report-problem-0). Anonymous reports are accepted but can give rise to a need to investigate.
The University of Iowa tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as the University of Iowa respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the University of Iowa to discuss and/or provide supportive measures.  

3. Any person may make a report that a student, employee, or visitor has experienced or committed sexual harassment, sexual misconduct or related retaliation by contacting the Office of the Sexual Misconduct Response Coordinator, or any Academic or Administrative Officer of the University.

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 the section immediately above, or as described in this section. 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 or will contact the Complainant to ensure that it is filed correctly.

Making a report to law enforcement. In an emergency: Call 911 from wherever you are, and a law enforcement officer will respond to assist you.

In nonemergency situations: Criminal sexual harassment or sexual misconduct, including sexual assault, dating/domestic violence and stalking may be reported to the law enforcement agency that has jurisdiction over the location where the assault or abuse occurred. Victim advocates have special training in working with law enforcement. The advocates at RVAP (24-hour crisis line, 319-335-6000) and other agencies [https://osmrc.uiowa.edu/victim-resources/confidential-support] can accompaniment to meetings with law enforcement officials.

8. Supportive Measures

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 non-disciplinary, non-punitive 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.

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.

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. University of Iowa will act to ensure as minimal an academic impact on the parties as possible. The University of Iowa will implement measures in a way that does not unreasonably burden the other party.

Supportive measures may include, but are not limited to:

- One-on-one educational conversations
- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Providing parking or transportation accommodations
- Implementing contact limitations (no contact directives) between the parties
- Academic extensions of deadlines, or other course/program-related adjustments
- Crime Alerts
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact directives will be referred to appropriate student or employee conduct processes for enforcement.

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
Carver Pavilion, Level 1
Iowa City, Iowa 52242
Emergency Medicine phone: 319-356-2233
UIHC Nurseline (operated 24 hours): 319-384-844

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. Paid administrative leave does not constitute emergency removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Threat Assessment Program using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student, employee, or two (2) 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 an Advisor of their choice 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 re-assigning an employee, restricting a student’s or 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 coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

10. Promptness

All allegations are acted upon promptly by 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 timeframes for resolution outlined in University of Iowa procedures will be delayed, 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.

11. Privacy

Every effort is made by the University of Iowa to preserve the privacy of reports. University of Iowa will not share the identity of any individual who has made a report or complaint of

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5 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
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 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law, court order, or legal process; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, grievance, or resolution proceeding arising under University of Iowa policies and procedures.

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

Only a small group of officials who have a business need to know will typically be told about the complaint, they may include, but are not limited to: the Office of the Sexual Misconduct Response Coordinator, the Office of Equal Opportunity and Diversity, the Office of Student Accountability, senior human resources leader or associate dean for faculty, the Office of the Provost, University Human Resources, the departmental executive officer, Department of Public Safety, Threat Assessment Program. Information will be shared as necessary with Response Coordinators, Investigators, Adjudicators, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties’ rights and privacy.

Confidentiality and mandated reporting are addressed more specifically below.

12. Jurisdiction of the University of Iowa

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 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 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.

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:

a. 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;
b. 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;
c. 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
d. Any situation that is detrimental to the educational interests or mission of the University of Iowa.

If the Respondent is unknown or is not a member of the University of Iowa community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University of Iowa’s community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator or a confidential advocate [https://osmrc.uiowa.edu/victim-resources/confidential-support].

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.

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.

**13. Time Limits on Reporting**

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

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

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

**14. Prohibited Conduct**

*Sexual harassment* means persistent, repetitive, or egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret, in the full context in which the conduct occurs, as harassment of a sexual nature.⁶

*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. The behavior 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:

- unwanted behavior of a sexual nature;

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⁶ This definition also includes sexual harassment as defined in the U.S. Department of Education Title IX Regulation Part 106.3:

1. A University of Iowa employee conditioned 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 recipient’s education program or activity;
b. comments or communications which could be verbal, written, or electronic. Behavior does not need to be directed at or to a specific person, but rather may be generalized unwelcome and unnecessary comments based on sex or gender stereotypes;
c. persistent unwelcome efforts to develop a romantic or sexual relationship;
d. unwelcome commentary about an individual's body or sexual activities;
e. repeated unwanted sexual attention;
f. repeated and unwelcome sexually oriented teasing, joking, or flirting;
g. verbal abuse of a sexual nature.

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

1. fear for their safety or the safety of others; or
2. suffer substantial emotional distress.

Examples include:

a. attempting to gather information about the target of unwelcome conduct;
b. vandalism, including attacks on data and equipment;
c. direct physical and/or verbal threats against a target of unwelcome conduct or loved ones of a target of unwelcome conduct, including animal abuse;
d. gathering of information about a target of unwelcome conduct from family, friends, coworkers, and/or classmates;
e. manipulative and controlling behaviors such as threats to harm oneself, or threats to harm someone close to the target of unwelcome conduct;
f. 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;
g. posing as someone other than oneself to initiate transactions, financial credit, loans, or other contractual agreements;
h. arranging to meet the target of unwelcome conduct under false pretenses.

**Dating violence** is a pattern of coercive, abusive, and/or threatening behavior committed by a person

1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. where the existence of such a relationship shall be determined based on a consideration of the following factors:
   a. length of the relationship.
   b. type of relationship.
   c. frequency of interaction between the persons involved in the relationship.
These behaviors may include but are not limited to physical, sexual, emotional, economic, or psychological actions or threats of actions that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, or injure the impacted party.

**Domestic violence** is a pattern of coercive, abusive, and/or threatening behavior committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, 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 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.

These behaviors include felony or misdemeanor crimes of violence and may include but are not limited to physical, sexual, emotional, economic, or psychological actions or threats of actions that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, or injure the impacted party.

**Sexual Assault**

**Non-consensual sexual contact**

Any intentional sexual contact, however slight, with any body part or object, by any individual upon another for the purpose of sexual gratification or for any other purpose that is:

- without consent,
- by force,
- by coercion, or
- upon an individual without capacity to consent because of:
  - age
  - temporary or permanent mental incapacity
  - temporary or permanent physical incapacity

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This definition also includes sexual assault as defined in the U.S. Department of Education Title IX Regulation Part 106.3: **Sex Offenses, Forcible**—Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent. **Forcible Rape**—(Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity. **Forcible Sodomy**—Oral or anal sexual intercourse with another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity. **Sexual Assault With An Object**—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity. **Forcible Fondling**—The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will or not forcibly or against the person’s will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity. **Sex Offenses, Nonforcible**—(Except Prostitution Offenses) Unlawful, nonforcible sexual intercourse. **Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent.
Sexual contact includes:
- intentional contact with the breasts, buttock, groin, or genitals;
- touching another with any of these body parts or object;
- making another touch you or themselves with or on any of these body parts;
- any intentional bodily contact in a sexual manner

Non-consensual sexual penetration

Any sexual penetration, however slight, with any body part or object, by any individual upon another that is:
- without consent,
- by force,
- by coercion, or
- upon an individual without capacity to consent because of:
  - age
  - temporary or permanent mental incapacity
  - temporary or permanent physical incapacity

Sexual penetration includes; no matter how slight the penetration:
- vaginal penetration by a penis, object, tongue, or finger;
- anal penetration by a penis, object, tongue, or finger;
- and oral copulation (mouth to genital contact or genital to mouth contact)

Incest

Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**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 non-legitimate 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) private parts without consent;
f. Threatening another person that you will commit a sex act against them;  
g. Engaging in indecent exposure.

**Consent is:**
- knowing, and
- voluntary, and
- clear permission
- by word or clear 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\(^8\) 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 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.

**Incapacitation:** Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand

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\(^8\) Bondage, discipline/dominance, submission/sadism, and masochism.
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 is 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:

- a temporary or permanent physical or mental health condition,
- involuntary physical restraint,
- and/or the consumption of alcohol or incapacitating drugs.

It is a defense to a sexual assault 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” 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.

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. 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 University of Iowa or any member of 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.

16. Mandated Reporting

All Academic or Administrative Officers (AAO) are required to report actual or suspected sexual harassment (stalking, dating and domestic violence), sexual misconduct or related retaliation to the Office of the Sexual Misconduct Response Coordinator within two business days.

"Academic or Administrative officer" includes the following:

- Collegiate deans (including associate deans and assistant deans),
- Faculty members with administrative responsibilities at the level of departmental executive officer (DEO) or above,
- Any staff member whose primary job responsibility is to provide advice regarding a student's academic pursuits or other University-related activities,
- 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),
- The President, Director of Equal Opportunity and Diversity, Sexual Misconduct Response Coordinator, vice presidents (including assistant and associate vice presidents), and Provost (including assistant and associate provosts), and those persons’ designees,
- Directors and supervisors in an employment context, including faculty and staff who supervise student employees, in relation to matters involving the employees they supervise (other than Department of Public Safety personnel when receiving criminal complaints or reports), and
- Human resource 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, must notify the Office of the Sexual Misconduct Response Coordinator of the allegations within two business days.
• The AAO must:
  o 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,
  o Provide notice of the allegations to the Office of the Sexual Misconduct Response Coordinator within two business days, and
  o Provide notice of the allegations to the Senior Human Resources Leadership Representative or Associate Dean for Faculty of the unit in which the alleged behavior occurred or, when incidents do not occur within a unit, notify the Senior Human Resources Leadership Representative of the Respondent.

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 Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees within two 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 University of Iowa for a Complainant or third-party:

  a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

1. Office of the Ombudsperson (for faculty, other instructors, staff, or students), 308 Jefferson Building;
2. Employee Assistance Program (for faculty or staff), 121-50 University Services Building;
3. University Counseling Service (for students), 3223 Westlawn;
4. Women’s Resource and Action Center (for faculty, other instructors, staff, students, or visitors), Bowman House;
5. Rape Victim Advocacy Program (certified advocates)(for faculty, other instructors, staff, students, or visitors); Linn Street Place;
6. Domestic Violence Intervention Program (certified advocates) (for faculty, other instructors, staff, students, or visitors), 1105 South Gilbert Court, Iowa City.
All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

University of Iowa employees who are confidential will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client or patient.

**b. Mandated Reporters and Formal Notice/Complaints**

All University of Iowa Academic and Administrative Officers are Mandated Reporters and must promptly share with the Title IX Coordinator/Office of the Sexual Misconduct Response Coordinator all known details of a report made to them in the course of their employment.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, 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 a 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 a Mandated Reporter, 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.

**17. When a Complainant Does Not Wish to Proceed**

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. University of Iowa’s 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 (or their Advisor) 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/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 University of Iowa, and to have the incidents investigated and properly resolved through these procedures.

18. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, 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.

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.

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

21. Federal Statistical Reporting Obligations

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

Campus Security Authorities include: student affairs/student conduct staff, campus law enforcement/public safety/security, local police, 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.

22. Educational Programs

1. 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:
   a. ensuring that Complainants and Respondents (and potential Complainants) are aware of their rights;
   b. notifying individuals of conduct that is prohibited;
   c. informing administrators about the proper way to address complaints of violations of this policy; and
   d. educating the community about the problems this policy addresses.

2. Primary prevention and awareness programs for incoming students and employees that includes information on sexual harassment/sexual misconduct, bystander intervention, risk reduction, along with information on other forms of protected class discrimination and harassment:
   a. All faculty, staff, and students meeting the following criteria are required to complete an approved course offered by the University
      i. Faculty: All faculty, any title, who hold at least a 50 percent appointment.
      ii. Staff (P&S): All regular staff, employed at least 50 percent or greater time,
      iii. Staff (merit): All regular staff, employed at least 50 percent or greater time,
      iv. Medical residents and fellows: All who hold at least a 50 percent appointment during the academic year,
v. Postdoctoral scholars/fellows: All who hold at least a 50 percent appointment during the academic year,

vi. 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,

vii. Students (undergraduate): University housing resident assistants, and any other student employees as determined by the Office of the Vice President for Student Life.

b. Current faculty/staff: All current faculty and staff members meeting the criteria set out in paragraph 2(a) above are required to participate in an approved harassment prevention course every three years (i.e., three calendar years from the date of their most recent training), unless more frequent training is required by the employing unit or college.

c. 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 six 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.

d. 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 two 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.

e. 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 a 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 OSMRC website.

f. The Office of Equal Opportunity and Diversity and Student Wellness are designated with centralized oversight and monitoring of compliance with the mandatory harassment prevention education for the campus community on sexual harassment, sexual misconduct, and other forms of protected class discrimination and harassment.
3. Preparation and dissemination of information. The 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.

4. Review of policy. This policy will be reviewed within three 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.