

# PROCEDURES, APPLICATIONS, AND GUIDANCE: Non-Discrimination and Anti-Harassment Policy

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*Iowa State University establishes this procedures, applications, and guidance document to assist it in carrying out its responsibilities in administering and enforcing applicable federal and state law and University and Board of Regents policies relating to discrimination and harassment. This procedures, applications, and guidance document is intended to create a process for reporting, responding to, addressing, investigating, and adjudicating reports of potential violations of ISU's [Non-Discrimination and Anti-Harassment Policy](#). This procedures, applications, and guidance document should be read in conjunction with and as a supplement to that policy. The policy and this procedures, applications, and guidance document are collectively referred to hereafter as the "Policy."*

*In keeping with its commitment to offer a fundamentally fair process for all parties involved, ISU reserves the right in its sole discretion to adapt certain aspects of the Policy in specific circumstances in order to meet the interests of all involved parties, including the University. The University also reserves the right to extend the time limits described in the Policy, in its sole discretion, in order to ensure a fundamentally fair process and to meet the interests of all involved parties, including the University.*

## **1. Prohibited Discrimination and Harassment**

Iowa State University prohibits all forms of discrimination and harassment based on an individual's [Protected Status](#) or perceived Protected Status, including as defined below, age, color, creed, disability, gender identity, genetic information, national origin, pregnancy, race, religion, sex, sexual orientation, and/or protected U.S. veteran status. [Discrimination](#) and [Harassment](#) are prohibited with respect to University employment, education, and the ability to participate in, access, and/or benefit from University programs and activities. In addition, this Policy restates the University's prohibition of [Complicity](#) and [Retaliation](#).

### **A. Discrimination**

- i. General definition: Discrimination is defined as any unlawful distinction, preference, or adverse treatment of an individual or group of identifiable individuals based on their [Protected Status](#) or perceived Protected Status that is sufficiently serious to unreasonably interfere with or limit:
  - An employee's or applicant-for-employment's access to University employment or conditions and benefits of employment (for example, recruitment, hiring, advancement, compensation, assignment, discipline);
  - A student's or applicant-for-admission's ability to participate in, access, or benefit from University educational programs or activities (for example,

admission, academic standing, grades, assignment, campus housing, discipline);

- An approved volunteer's ability to participate in, access, or benefit from University volunteer programs; or
  - A visitor's ability to participate in, access, or benefit from University programs open to visitors.
  - This form of discrimination is identified as “*adverse treatment*” discrimination.
- ii. Discriminatory conduct may also include facially neutral conduct that has the unjustifiable effect of disproportionately impacting individuals based on their Protected Status. This is identified as “*adverse impact*” discrimination.
- iii. Discriminatory conduct may also include failing to provide reasonable accommodation, consistent with state and federal law, to qualified individuals based on [disability](#) and/or [religion](#). This is identified as “*failure to accommodate*” discrimination.

## **B. Harassment**

- i. General definition: Harassment is a form of discrimination that occurs when unwelcome conduct based on [Protected Status](#) or perceived Protected Status is sufficiently severe or pervasive to unreasonably interfere with an individual's or group of identifiable individuals' educational environment, employment environment, and/or participation in a University program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. This is identified as “*hostile environment*” harassment.
- ii. Harassment may also include unwelcome conduct based on Protected Status where submission to or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's or group of identifiable individuals' education, employment, or participation in a University program or activity. This is identified as “*quid pro quo*” harassment.

## **C. Sexual and/or Gender-Based Harassment**

The University has independent obligations to comply with Title VII of the Civil Rights Act of 1964 which, among other items, prohibits sex discrimination with regard to any term, condition, or privilege of employment; Title IX of the Education Amendments of 1972 which, among other items, prohibits sex discrimination in education programs and activities; and the Iowa Civil Rights Act of 1965 which, among other items, prohibits sex discrimination in the

areas of employment, housing, and education. These important laws impose different obligations with respect to sex based discrimination and harassment and include different definitions. As provided for within regulations and guidance implementing these laws, the University may address conduct under one or more applicable policies or codes of conduct in order to satisfy its various legal obligations.

The University's Title IX Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking Policy [\[link\]](#) prohibits and applies to sexual harassment and allegations of sexual harassment, as that term is specifically defined in that policy, within the University's education programs or activities. The definition of sexual and/or gender-based harassment immediately below may also apply to sexual harassment and allegations of sexual harassment within the University's employment terms, conditions, or privileges.

- i. General definition: Sexual and/or gender-based harassment is a form of discrimination and harassment, as defined above, and includes unwelcome conduct based on sex, gender, sexual orientation or gender identity, that meets any of the following criteria:
  - The submission to, or rejection of, the unwelcome conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's or group of identifiable individuals' employment terms, conditions, or privileges. This is identified as "*quid pro quo sexual/gender-based harassment*."
  - The unwelcome conduct is sufficiently severe or pervasive to unreasonably interfere with an individual's or group of identifiable individuals' employment environment, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive. This is identified as "*hostile environment sexual/gender-based harassment*."

## **D. Additional Guidance Regarding Discrimination and Harassment**

Consistent with the definitions provided above, the following information provides additional guidance regarding discrimination and/or harassment:

- i. Conduct and alleged conduct will be analyzed on a case-by-case basis, by looking at the totality of the circumstances and the specific context present.
- ii. Relevant factors in evaluating whether the conduct in question created an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive may include but is not limited to:
  - the frequency of the conduct; the duration of the conduct; the severity of the conduct; whether the conduct was physical in nature; whether the conduct was

physically threatening; whether the conduct unreasonably interfered with an employee's work performance or a student's educational performance; as well as any other relevant factors.

- The more severe the conduct, the less pervasive it needs to be, and vice versa. Generally, a single isolated incident, unless sufficiently severe, does not amount to Hostile Environment Harassment.
- iii. A hostile, intimidating, or abusive environment may be created by the conduct of supervisors, employees, colleagues, customers, students, peers, visitors and third-parties.
  - iv. Discrimination and harassment may occur between persons of the same or different Protected Status(es).
  - v. Discrimination and harassment may be blatant and involve an overt action, threat, or reprisal; or may be subtle and indirect with a coercive aspect that is unstated but reasonably implied.
  - vi. A hostile, intimidating, or abusive environment may be created by or against an individual or by or against an organization or group of identifiable individuals.
  - vii. A hostile, intimidating, or abusive environment may occur in the classroom, in the workplace, in a University residential setting, or in a University activity or program.

## **E. Protected Status**

Consistent with federal and state law, ISU prohibits discrimination and harassment based on age, color, creed, disability, gender identity, genetic information, national origin, pregnancy, race, religion, sex, sexual orientation, and protected U.S. veteran status. Applicable federal and state law and regulatory guidance describe these protected statuses as such:

- i. Age: The number of years from the date of a person's birth. With respect to employment, federal law protects individuals who are forty (40) years of age or older and State of Iowa law protects individuals who are eighteen (18) years of age or older from discrimination and harassment based on age. There is no age threshold for students or other participants in educational programs or activities.
- ii. Color: The lightness, darkness, or other color characteristics of the person, including skin pigmentation, complexion, shade, or tone.
- iii. Creed: A system or set of fundamental beliefs, including religious, moral, or ethical beliefs that are sincerely held with the strength of traditional religious views. Social, political, or economic philosophies, as well as mere personal preferences, are not creeds.

- iv. Disability: A person with a disability is any person who has a physical or mental impairment that substantially limits one or more major life activity; or has a record of such impairment; or is regarded as having such impairment. A qualified person with a disability must be able to perform the essential functions of the employment or volunteer position or the academic, athletic, or extra-curricular program, with or without reasonable accommodation. Under State of Iowa law, disability includes the condition of a person with a positive human immune-deficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome-related complex, or any other condition related to acquired immune deficiency syndrome. (See Iowa Civil Rights Act, § 216.2)
- v. Gender Identity: The gender-related identity of a person, regardless of the person's assigned sex at birth. (See Iowa Civil Rights Act, § 216.2)
- vi. Genetic Information: Information about (1) a person's genetic tests, (2) the genetic tests of family members of such a person and/or (3) the manifestation of a disease or disorder in family members of such a person. Genetic Information includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services by such individual or any family member of such individual.
- vii. National Origin: A person's (or their ancestors') actual or perceived country or ethnicity of origin.
- viii. Pregnancy: A person affected by pregnancy, childbirth, or related medical conditions.
- ix. Race: A person's actual or perceived racial, ethnic, or cultural ancestry or physical characteristics associated with a person's race, such as a person's color, hair, facial features, height, and weight.
- x. Religion: Religious beliefs, practices, and observances including those that are theistic in nature, as well as non-theistic moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views. Social, political, or economic philosophies, as well as mere personal preferences, are not "religious" in nature.
- xi. Sex: A person's biological status of male, female, or intersex, including pregnancy. Conduct of a sexual nature is by definition based on sex.
- xii. Sexual Orientation: Actual or perceived heterosexuality, homosexuality, or bisexuality. (See Iowa Civil Rights Act, § 216.2)

- xiii. Protected U.S. Veterans: Covered Veterans include Disabled Veterans, Special Disabled Veterans, Veterans of the Vietnam Era, Recently Separated Veterans, and other protected Veterans [as defined by federal and state law](#).

## **F. Complicity**

- i. General definition: Complicity is any act taken with the purpose of aiding, abetting, facilitating, promoting, or encouraging the commission of an act of discrimination or harassment by another.
- ii. Listed below are examples of conduct that may constitute complicity. This list is not all-inclusive and each situation must be evaluated in light of this Policy and the specific facts and circumstances present:
- Coercing, compelling, or preventing (including attempts) an individual from providing a statement or relevant information relating to a complaint or investigation pursuant to this Policy; Removing, destroying, or altering (including attempt) documentation/evidence relating to a complaint or investigation pursuant to this Policy; Providing false or misleading information to University officials (or encouraging others to do so) relating to a complaint or investigation pursuant to this Policy; Assisting an individual in hiding or covering up the commission of any act of discrimination or harassment.

## **G. Retaliation**

- i. General definition: Retaliation is adverse action or threat of adverse action taken against an individual because of the individual's participation in a "protected activity" that would discourage a reasonable person from engaging in protected activity. Protected activity includes an individual's good faith:
- participation in the reporting, investigation, or resolution of an alleged violation of this Policy;
  - opposition to practices or actions that the individual reasonably believes are in violation of this Policy or applicable law; and/or
  - request for accommodations on the basis of religion or disability.
- ii. Retaliation is an independent violation of policy and may be present even where there is a finding of "no responsibility" on the underlying report.
- iii. The University strictly prohibits retaliation, and will take steps to prevent retaliation, and will impose sanctions on anyone or any group who is found to have engaged in retaliation. Concerns about potential retaliation in connection

with a report of discrimination or harassment should be immediately reported to the [Office of Equal Opportunity](#).

## **2. Important Terms, Concepts, and Guidance**

The following information helps clarify important terminology and concepts as used throughout this Policy, as well as throughout the investigation and resolution process of complaints brought under the Policy.

### **A. Complainant, Respondent, Witness**

This Policy uses the terms complainant, respondent, and witness as follows:

- i. Complainant – refers to an individual(s) who reports experiencing discrimination or harassment or is otherwise impacted by discrimination or harassment and is named in a complaint filed pursuant to this Policy. The University and departments/units may serve as complainants in complaints filed pursuant to this Policy when the individual reportedly impacted by the prohibited conduct does not wish to participate and the University has determined that it must proceed in order to provide a safe and non-discriminatory campus environment and/or in otherwise appropriate cases as determined by OEO.
- ii. Respondent – refers to an individual(s) who is responding to a complaint filed pursuant to this Policy, and is the individual who has been accused of engaging in prohibited conduct. A University department/unit may be named as a respondent in a matter.
- iii. Witness – refers to an individual(s) who may have information relevant to a report of discrimination or harassment. A witness may be a student, employee, faculty member, or third-party. The University encourages all individuals to report potential incidents of discrimination and harassment to OEO. Supervisory employees are required to contact OEO when they become aware of potential violations of this Policy, and ISU Responsible Employees are responsible for reporting potential violations to OEO.

### **B. Obligation to Provide Truthful Information**

All individuals involved in the resolution process described in this Policy are expected to provide truthful information. Knowingly providing false or misleading information in bad faith in connection with a potential violation of this Policy is prohibited and subject to disciplinary action. Reports and complaints made in bad faith need not be investigated pursuant to this Policy. This provision does not apply to reports made or information provided in good faith, even if the facts reported or stated are not later substantiated and/or no policy violation is found to have occurred.



## C. Preponderance of the Evidence

The University applies the “preponderance of the evidence” standard in determining whether a respondent is or is not responsible for violating this Policy. An individual alleged to have engaged in conduct in violation of this Policy is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the applicable adjudicative process.

- i. General definition: A finding of responsibility based on a preponderance of the evidence means that weighing all relevant evidence and reasonable inferences from that evidence, the greater weight of information indicates that it is more likely than not that the respondent violated policy.
- ii. Additional guidance: Not all evidence and information is equally helpful in determining whether the preponderance of the evidence standard is met. Evidence and information must be weighed, with the more credible, trustworthy, reliable, and probative evidence and information being given more weight.

## D. Consensual Relationship

The University recognizes that consenting individuals should be free to enter into personal relationships of their choice. However, certain consensual relationships risk the fundamental interest of community members to participate in University employment and educational programs and activities free from conflicts of interests, favoritism, and/or exploitation.

- i. General definition: As defined and detailed in the University’s [Consenting Relationships Policy](#) and [Section 7.2.2.1.1 \(Consenting Relationship\)](#) of the Faculty Handbook, consensual relationships that are of concern to the University are those sexual, romantic, and/or intimate relationships to which the parties have consented, but where a reporting or evaluative relationship exists between the parties. Faculty, instructors, supervisory employees, advisers, and coaches must not participate in the management, supervision, teaching, advising, evaluating, and/or coaching of a student, student-athlete, employee, colleague, or advisee with whom a sexual, romantic, and/or intimate relationship exists or has existed. The faculty member, instructor, supervisor, adviser, and/or coach must take appropriate actions to end the management, supervision, teaching, advising, evaluating, and/or coaching relationship, thereby removing the possibility of a conflict of interest, and the possibility for exploitation or favoritism. Failure to do so will be viewed as misconduct and result in disciplinary action.
- ii. Interaction with discrimination and harassment policy: Consenting relationships may result in discrimination or harassment where: (1) the subordinate individual and/or third-parties are adversely affected in academic or employment matters

because of the consensual relationship; (2) where the consensual relationship creates a hostile or intimidating work or learning environment for the subordinate individual and/or third-parties; and/or (3) where the consensual relationship ends, and one of the parties continues conduct which the other party has made clear is now unwelcome.

- If there is a complaint of sex and/or gender-based harassment relating to a consensual relationship covered by the Consenting Relationships Policy and/or Section 7.2.2.1.1 of the Faculty Handbook, and the relationship has not been disclosed to appropriate administrators and the actual or perceived conflict of interest has not been removed, the responsibility will be on the person in the position of greater authority or power to explain the failure to comply with these policies. The burden will also be on the person in the position of greater authority or power to demonstrate that the relationship in question was in fact consensual and free of sex and/or gender-based harassment.

## **E. Academic Freedom and Freedom of Expression**

ISU is committed to the principles of academic freedom and freedom of expression. As such, in determining whether discrimination or harassment has occurred and what type of remedy, if any, might be appropriate in a given situation, the University will consider the fact that free intellectual inquiry, debate, and constructive dialogue are vital to the University's academic mission and must be protected even when the views expressed are controversial, unpopular, or unseemly. Additional information regarding academic freedom may be found in the [ISU Faculty Handbook](#).

- i. Interaction with discrimination and harassment policy: The definitions of discrimination and harassment in this Policy are meant neither to proscribe nor to inhibit discussions, in or out of the classroom, of complex, controversial, or sensitive matters, including matters involving race, religion, sex, sexuality, or gender when in the judgment of a reasonable person they arise for legitimate educational and/or employment purposes. The mere expression of views, words, symbols or thoughts that some people find offensive, does not necessarily constitute a violation of this Policy. Conduct that constitutes a protected exercise of an individual's rights under the First Amendment to the United States Constitution (and related principles of academic freedom) will not be deemed a violation of this Policy.
- ii. Academic Freedom and Freedom of Speech Considerations: In evaluating whether alleged conduct violates this Policy and/or is protected speech, the

following factors may be considered. In all circumstances the totality of the situation is considered as well as the specific context:

- Whether the conduct is accompanied by gestures or other actions that would cause a reasonable person to fear for their safety or the safety of another.
- Whether the conduct reasonably indicates a discriminatory or harassing purpose.
- Whether the conduct is directed toward a specifically identified individual or group of individuals.
- Whether the conduct occurs within a context where the recipient/target is in a position to avoid the speaker/actor.
- Whether the conduct is reasonably related to a legitimate pedagogical, educational, and/or employment interest.
- Whether the conduct is delivered in a professionally appropriate manner considering the context.
- Whether the conduct occurs within a public forum on a matter of public concern, or otherwise in a context in which free debate is encouraged.
- Whether the conduct is sufficiently severe as to amount to a criminal offense under federal, state, or local law.
- Whether the conduct reasonably indicates an incitement to imminent lawless action and/or solicitation to violate the law.
- Whether the conduct in question is unprotected obscenity.
- Whether the speaker/actor did or could reasonably foresee that the conduct would interfere with another's ability to participate in or benefit from University services, activities, or benefits.
- When investigating conduct which includes scholarly discourse, consideration of the provisions of the Faculty Handbook on scholarly discourse and germaneness.

## **F. Responsibilities of the University, Administrators, and Supervisors**

- i. Prevention and Awareness Training and Programing: The University is committed to the prevention of discrimination and harassment through regular and ongoing education and awareness programs. All new students (freshman, transfer, and graduate) and new faculty and staff receive initial prevention and awareness programming as part of their orientation, and returning students and current employees receive annual training and related education. Educational

programs include information on how and where to report concerns, resources and services available to all those impacted by discrimination and harassment, how to prevent and identify discrimination and harassment, as well as specific training for supervisory employees. Special training is provided to those community members involved in receiving reports, investigating, adjudicating and otherwise responding to reports of discrimination and harassment. Through this policy and related initiatives, the University communicates to the community that discrimination and harassment are prohibited both legally and by this Policy, and that appropriate procedures for dealing with allegations of discrimination or harassment are available. Students, staff, faculty, and visitors should know that the University takes such matters seriously and is prepared to take preventive and corrective action.

- ii. Administrator and Supervisor Obligations: University administrators, faculty, and staff in supervisory positions are **required** to report complaints of discrimination and harassment in the workplace and/or educational environment that they become aware of to the Office of Equal Opportunity. Administrators and supervisors who fail to do so are in violation of this Policy. Administrators and supervisors needing assistance with respect to these matters should consult with OEO.
- iii. Responsible Employees: At ISU, the following community members are considered Responsible Employees: (1) all teaching and practice faculty, including lecturers, professors at all ranks, adjuncts, graduate teaching assistants, and any others who offer classroom instruction or office hours to students; (2) all advisers; (3) all coaches, trainers, and other athletic staff that interact directly with students; (4) all student affairs administrators; (5) all residential hall staff; (6) all supervisors and university officials/administrators; and (7) all employees who work in offices that interface with students.

When a Responsible Employee learns of potential discrimination or harassment, including Title IX Sexual Harassment [link], in the employment or educational setting, the Responsible Employee is responsible for reporting that information to the University's Title IX Coordinator within OEO.

### **3. Complaint Resolution Procedures**

ISU prohibits discrimination and harassment based on unlawful considerations of such characteristics as age, color, creed, disability, gender identity, genetic information, national origin, pregnancy, race, religion, sex, sexual orientation, and/or U.S. veteran status. The University's [Office of Equal Opportunity](#) ("OEO") works to ensure compliance with federal, state, and University non-discrimination and affirmative action policies and requirements. The

procedures outlined below guide OEO in responding to complaints of alleged prohibited discrimination, harassment.

*\*Related Policies:* The investigation and resolution of reports of Title IX sexual harassment, sexual assault, dating violence, domestic violence, and stalking (as those terms are specifically defined) are governed by the University's Title IX Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking Policy [link]. Reports of this nature may be made to OEO.

## **A. Parties**

Any student, staff member, faculty member, applicant for admission, applicant for employment, program participant/applicant, or visitor may file a complaint of discrimination with OEO against any other member of the University community (including third-parties within the control of the University) who is believed to have violated this Policy. Where appropriate, such complaints may be filed against units, departments, offices, or other organizational components of the University. See [Scope of Policy](#) for more information.

## **B. Complaint Options**

Individuals who believe they have been subjected to discrimination or harassment in violation of this Policy may contact OEO to discuss their concern and available complaint resolution options. OEO offers both formal and informal options for resolving complaints. Incidents of alleged discrimination and harassment are handled in a way that places a strong emphasis on resolving complaints in an effective and timely manner. Accordingly, individuals are encouraged to voice their concerns early and in a productive manner before their concerns escalate.

While OEO is committed to respecting a complainant's self-selected complaint resolution process, OEO reserves the right to initiate a formal investigation regardless of the complainant's selection. Examples of situations in which OEO will initiate a formal investigation regardless of the complainant's selection include: (1) when the University is required by law to formally investigate an allegation; (2) when a formal investigation is determined by OEO to be most appropriate; (3) when a complainant's selection is outweighed by the University's obligation to provide a safe and non-discriminatory environment; and/or (4) in furtherance of any other legitimate University purpose.

When appropriate, the University may take interim remedial action in order to promote a safe and non-discriminatory environment for parties and the community.

## **C. Summary of Rights of Complainants and Respondents During the Resolution of Complaints**

Complainants and respondents both have rights during the complaint resolution process. These rights include:

- i. To be treated with respect by University officials throughout the process.
- ii. To be informed of all applicable University policies and procedures as well as the nature and extent of all reported violations contained within the complaint.
- iii. To have the University keep their name and other information as private as possible, generally only sharing information with individuals who “need-to-know.”
- iv. To receive assistance from the University in contacting law enforcement, if the individual so chooses.
- v. To be notified of potentially available supportive measures.
- vi. To request reasonable disability accommodations.
- vii. To be accompanied and assisted by an adviser/support person, who may be, but is not required to be an attorney, of the individual’s choosing at any meetings, interviews, and any necessary hearings. An adviser/support person’s role and participation in any meetings, interviews, and hearings is limited by this Policy and rules of decorum apply.
- viii. To receive notice of any formal investigation, hearing, decision, sanction, and/or appeal.
- ix. To receive a fair, reliable, and impartial investigation and appropriate resolution process.
- x. To have reports of alleged violations of this Policy investigated by individuals who are properly trained to investigate and resolve such reports.
- xi. To request that any individual with a conflict of interest not participate in the University’s processes.
- xii. To have the opportunity to participate equitably in any investigation or hearing process.
- xiii. To be protected from retaliation.
- xiv. To discuss experiences, including any concerns regarding the university’s process with the Director of OEO or any other appropriate University official, or someone external to the University.

## **D. Interim Measures**

ISU is committed to protecting the safety of and offering support and services to individuals potentially impacted by conduct prohibited by this Policy. Upon receipt of a report or complaint under this Policy, OEO will discuss with appropriate administrator(s) reasonable and appropriate interim measures designed to preserve the parties' employment and educational experiences; protect the parties during an investigation; address possible safety concerns for the parties involved and for the broader community; maintain the integrity of the investigation/adjudication process; and/or to deter retaliation.

Interim measures that may be appropriate and reasonable considering the specific facts and circumstances include but are not limited to: lateral transfers of one or more of the parties in an employment setting and a comparable move if a classroom setting is involved; arrangement that academic and/or employment evaluations concerning complainants or others be made by an appropriate individual other than the respondent; and implementing mutual restricted contact requirements between parties, which require parties not to contact each other without proper authorization. Parties should identify and discuss with OEO interim measures that they believe may be appropriate and reasonable.

In situations involving particularly serious allegations, appropriate administrator(s) in consultation with OEO may, pending the final outcome of the investigation, implement administrative leave procedures or partially restrict from employment any employee accused of violations of this Policy and/or interim suspend or partially restrict from educational programs and activities any student accused of violations of this Policy. The applicable employee, faculty, and/or student handbook, policy, or code of conduct governs the implementation of such interim measures.

## **E. Participation in the Investigation and Resolution Process**

University community members (complainants, respondents, and witnesses) may be required to meet with appropriate University officials to receive notice of allegations and receive information about the Policy and the resolution process. At such meetings, parties may elect to make no statement. However, it is understood that if a party declines to make a statement, the University may proceed without their participation. Not participating may impact the University's ability to respond fully to a matter, including pursuing disciplinary action. In all matters, the University will render a decision based on the totality of the relevant information available.

Providing false or misleading information, or submitting a report or complaint in bad faith, may subject an individual to discipline under this Policy. All parties and witnesses involved in OEO procedures are urged to respect the integrity of the procedures and the legitimate privacy interests of the parties and witnesses. This does not prohibit an individual from consulting with or obtaining support from family members, counselors, therapists, clergy, medical providers, attorneys, or similar resources.

ISU is committed to providing equity in access to the university's activities, programs, and services, including its investigation and adjudication processes. Students requesting accommodations during the investigation or adjudication processes due to disability are required to meet with staff in Student Accessibility Services (SAS) [link] to establish eligibility and engage in the interactive accommodation process. Employees requesting accommodations during the investigation or adjudication processes due to disability are required to meet with University Human Resources (UHR) [link] to establish eligibility and engage in the interactive accommodation process. Students and employees requesting disability accommodations related to the investigation/adjudication process must alert the OEO staff member administering their matter in writing of any approved accommodations and supply appropriate documentation from SAS or UHR.

## **F. Informal Complaint Resolution**

Informal complaint resolution is a request that OEO seek to reach an informal resolution of the complainant's concerns. The procedures for such complaints are designed to be flexible so as to enable OEO to address the concern in the most effective and expeditious manner possible. Resolutions of informal complaints are often accomplished with the assistance of other offices or administrators on campus in the area relevant to the complaint and/or respondent. The informal resolution process is not a fact-finding endeavor. No formal investigation is conducted. Rather, the informal resolution process provides an opportunity to give notice of perceived inappropriate conduct and allows OEO to assist the parties in informally resolving the concern.

Following the informal resolution process, complainants may still choose to pursue a formal complaint as long as both processes are utilized in good faith. Generally, the filing of a formal complaint following the resolution of an informal complaint is appropriate after a reasonable amount of time has passed and the situation has not improved and/or circumstances have changed, including the occurrence of additional concerning conduct. If a concern is already the subject of a formal complaint or has already been the subject of a resolved formal complaint, informal resolution is not available.

- i. Informal complaint resolution process: The informal complaint resolution process is designed to be flexible to allow the parties, OEO, and any other relevant offices/departments to effectively and efficiently address the concern. Ordinarily, the informal complaint resolution process is initiated after the complainant completes an initial intake interview with OEO. During this intake interview, OEO will explain this Policy, the applicable complaint resolution options, and seek more information regarding the concern(s). If the complainant selects the informal resolution option, they will be asked to document that selection.



- ii. Example informal resolution mechanisms: The following are examples of possible mechanisms used by OEO to address informal complaints. This list is not exhaustive.
- *Consultation:* Faculty, staff and students may meet with OEO staff to consult about concerns they think might be related to discrimination or harassment. These consultations are aimed at clarifying issues and identifying appropriate actions, options, possible solutions, and available resources and support. Issues and disputes that are not related to OEO may be referred to other campus units for appropriate resources or resolution.
  - *Facilitated conversation:* A facilitated conversation is a constructive dialogue between two or more individuals, facilitated by an OEO staff member, that offers space for voices to be heard and perspectives to be shared. Because it is a conversation, working toward a particular resolution or agreement is not the intended outcome. In addition, the facilitated conversation is not part of, and does not imply or initiate, any formal complaint or investigation. Rather, the conversation itself offers an informal resolution to the concerns an individual engaged our office to address.
  - *Shuttle diplomacy:* An indirect, facilitated conversation in which an OEO staff member meets individually with each party to discuss experiences and perspectives while working toward meeting expressed needs. The parties do not come together in the same room; rather, the parties communicate via an OEO staff member who “shuttles” between the parties’ rooms.
  - *Mediation:* Mediation is a process for parties to resolve a dispute with the help of a neutral OEO staff member who helps them discuss their conflict/differences toward jointly resolving their concerns. OEO does not “take a side.” The OEO staff member guides the process, and the parties do the work of making decisions and coming up with solutions.
  - *Impact statement:* A party may make an impact statement, written or oral, to be shared with the other party. An impact statement describes the effect that the alleged misconduct has on the party.
  - *Agreed Resolution:* In an agreed resolution, the respondent agrees to some or all of the misconduct alleged by the complainant. Agreed resolutions are not introduced as evidence of responsibility. Any agreements that are reached as part of the Agreed Resolution process are signed by all complainant/s and respondent/s and must be approved by the Associate Director or the AVP. Examples of measures that may be agreed to as a result of the Agreed Resolution process include: Regular meetings with an appropriate University individual, unit, or resource; Commencement or extension of a Restricted

Contact Notice; Restriction from participation in certain clubs and/or organizations; Restriction from participation in particular events; and/or Educational programming and/or training.

- *Training and Education:* OEO offers multiple opportunities for training and education for individuals, departments, and units, in multiple platforms and formats on a wide range of topics. To request a presentation, please visit: <https://www.eoc.iastate.edu/training--learning-and-development/training-request-form>
- In cases of complaints against members of the faculty, the faculty conduct policy provides for mediation by a third party to resolve a charge of misconduct outside of a hearing process. For more information, see the Faculty Handbook, Faculty Conduct Policy, Mediated Process (§7.2.4).

## **G. Formal Complaint Resolution**

A formal complaint under this Policy involves an impartial investigation of the complainant's allegations by OEO. Generally, formal investigations involve interviewing the complainant, providing written notice to the complainant and the respondent of the filing of the complaint, interviewing the respondent regarding the specifics of the allegations and giving the respondent an opportunity to respond fully to the allegations, interviewing any relevant witnesses, and the collection and review of information material to the allegation(s). The purpose of a formal investigation is to determine whether the respondent is or is not responsible for a violation of the Policy, considering the context and the totality of the information presented using a [preponderance of the evidence](#) standard of proof. Formal investigations may lead to formal discipline against faculty, staff, students, and third-parties to the extent the University exercises control over the party.

- i. Requirements for Formal Complaints: Formal complaints are not considered filed unless submitted in writing to [OEO](#). Formal complaints must contain the following information, if known or reasonably available:
  - The full name, contact information, and signature (physical or electronic) of the complainant;
  - The name of the respondent(s), if known;
  - The name (and if known contact information) of any individuals who may have information material to the complaint; and
  - The basis for the complaint, including a description of the conduct alleged to be in violation of this Policy.

- ii. Failure to meet the requirements of a formal complaint: OEO has the discretion to not formally investigate a complaint. Legitimate reasons for not formally investigating a filed formal complaint include but are not limited to:
- The conduct described in the complaint is not covered by the Policy.
  - The conduct described in the complaint, even if proven true, would not constitute a violation of the Policy or applicable local, state, or federal law.
  - There is sufficient evidence suggesting that the complaint is not made in good faith.
  - The conduct described in the complaint is already the subject of an internal or external investigation or litigation.
  - An appropriate resolution or remedy has already been achieved, or has been offered and rejected.
  - The timeliness of the complaint renders formal investigation impracticable.
  - The complaint does not satisfy the required elements of a written formal complaint.
  - The complainant declines/refuses to cooperate in OEO's investigation.
  - The complaint is withdrawn.

If OEO determines that it will not proceed with a formal complaint investigation under this Policy, OEO will send written notification explaining the reason(s) to the complainant. The notification will also include a statement informing the complainant that, within ten (10) calendar days of the notification, the complainant may seek to correct their complaint or otherwise satisfy the requirements of a formal complaint. OEO may elect to proceed under a different policy, if applicable.

- iii. Formal Investigation Process: The significant steps of the formal investigation process include:
- (1) *Submission of Formal Complaint:* As detailed above, the complainant must provide OEO with a signed written complaint.
  - (2) *Intake Interview:* At or soon after the time a complainant files a formal complaint, an OEO investigator will conduct an interview with the complainant. The OEO investigator will explain the Policy, review the formal investigation process, and explore the details surrounding the complaint.
  - (3) *Preliminary Review:* The OEO investigator will conduct a preliminary review of the complaint. The preliminary review may include talking with individuals other than the complainant, but the purpose of the preliminary review is not to determine the ultimate facts. Instead, its purpose is to determine whether the complaint falls

within the scope of the Policy and whether the information provided, if true, may rise to the level of a Policy violation. A formal investigation will be initiated if a complaint is timely, within the scope of the Policy, and provides information that if true could rise to the level of a Policy violation.

- (4) *Notice to Parties and Supervisor:* When a formal investigation is initiated, OEO will provide written notice to the parties that includes: (i) notice of this and other applicable policies; (ii) the identity of the complainant (if permissible under applicable law/university policy); (iii) the allegations constituting the potential Policy violation; (iv) sufficient details known at the time regarding the allegations, including identities of the parties involved, the specific section of the Policy allegedly violated, the specific conduct allegedly constituting the potential violation, and the date and location of the alleged incident; (v) a list of relevant University services and resources; (vi) a statement regarding the University's anti-retaliation policy; (vii) a statement regarding the University's use of the preponderance of the evidence standard and that determinations regarding responsibility are made at the conclusion of the process; (viii) a statement informing the parties that they will be provided an opportunity to participate and inspect and review the record in the matter; (ix) a statement informing the parties that they may have an adviser/support person; and (ix) a statement informing the parties that knowingly making false statements or knowingly submitting false information during the process is prohibited and subject to discipline.

If in the course of an investigation, OEO decides to investigate allegations not included in the initial notice, OEO will provide notice of the additional allegations to the parties.

OEO will also provide separate notice of the initiation of a formal investigation to the respondent's supervisor, *e.g.*, in matters involving a faculty member notice will be provided to the chair and/or dean, and the Office of the Senior Vice President and Provost; in matters involving a staff member notice will be provided to the staff member's department/unit level supervisor and University Human Resources; and in matters involving students, notice will be provided to the Dean of Students Office, Office of Student Conduct. This notice will include information that is reasonably necessary.

- (5) *Respondent Interview:* After providing notice of the complaint to the respondent, OEO will schedule an interview with the respondent. During the interview, OEO will review the Policy and investigation process, explore the specifics of the allegations, and provide the respondent an opportunity to respond fully to the complaint. In addition to the interview, the respondent may submit a written response to the complaint within ten (10) calendar days of the respondent's first OEO interview.
- (6) *Submission of Evidence:* During the complaint investigation process, the complainant and the respondent may provide to OEO all relevant documents and/or other evidence relating to the complaint, and all parties have an equal

opportunity to identify potential witnesses. The investigator may also seek evidence from other sources.

- (7) *Amending the Complaint*: If, during the course of an investigation, the OEO investigator determines that more information is required to enable a meaningful investigation, the investigator may request the complainant to clarify or amplify allegations in the complaint. Any additions or clarifications to the complaint will be shared with the respondent and the respondent will be provided with an opportunity to respond to the new/amended information.
  - (8) *Additional interviews and review of evidence*: The OEO investigator may interview other individuals believed to have factual knowledge relevant to the complaint, including individuals identified by the complainant and/or respondent. The investigator will assemble statements, documents, and other relevant evidence from the complainant, the respondent, witnesses, and other identified individuals who have or may have information relevant to the complaint.
- iv. Review of Preliminary Investigative Report: OEO will simultaneously notify the complainant and the respondent of the completion of the Preliminary Investigative Report (PIR). The PIR is a written report outlining the investigation; summarizing the interviews with the complainant, respondent, and witnesses; summarizing the material evidence collected; and outlining the undisputed and disputed material facts. In this notice, OEO will schedule separate PIR review meetings with the parties to fully review and discuss the investigation, the PIR, and next steps in the process. Within five (5) calendar days of the PIR review, the Complainant and the Respondent may offer additional comment, clarify information previously shared, challenge assertions, suggest additional witnesses, and/or identify any other relevant information or evidence to assure the thoroughness and sufficiency of the investigation. The Preliminary Investigative Report is considered confidential. Accordingly, parties should only disclose the Preliminary Investigative Report for the purpose of receiving support, counsel or advice relating to the investigation.
  - v. Delivery of Final Investigative Report to Appropriate Administrative Official: Once the parties have responded to the Preliminary Investigative Report, or the five (5) calendar days have elapsed, the OEO investigator will review and address any questions or follow-up submitted by the parties, as deemed appropriate by the investigator. This may include conducting additional investigation. The OEO investigator will then incorporate any necessary revisions or new information into a Final Investigative Report. The Final Investigative Report also includes credibility assessments of the complainant, the respondent, and witnesses, as well as findings on disputed material facts. After the parties have had the opportunity to review the Final Investigative Report, the report will be provided to the administrative official(s) responsible for the area in which the respondent is involved, and the chief administrative officer responsible for the area in which the

respondent is involved or their designee (e.g., the Provost in a complaint filed against a faculty member; UHR and the senior vice president, vice president, or dean for the unit in a complaint filed against a staff member; the Dean of Students Office, Office of Student Conduct in a complaint filed against a student; and the Dean of the Graduate College and the Office of Student Conduct in a complaint filed against a graduate student).

## 4. Process for Adjudication, Discipline, and Appeal

Following the issuance of the final investigative report, the appropriate administrative official will initiate the applicable adjudication process.

**A. Adjudication and Discipline:** The adjudication and discipline process, if necessary, will be governed for:

- i. Faculty members by [Chapter 7 of the Faculty Handbook](#).
- ii. Staff members by applicable [Merit System Rules](#) and contracts and/or University policies in the [Policy Library](#) for organized merit, non-organized merit, professional & scientific, and student employees.
- iii. Graduate assistants by [Chapter 9 of the Graduate College Handbook \(Rights & Responsibilities\)](#);
- iv. ISU students by the [Student Code of Conduct](#).
- v. Reports regarding the conduct of contractors, visitors, and other third-parties will be reviewed by the OEO Director and the administrative official(s) responsible for the area in which the third-party was involved.

**B. Appeals and Grievances:** The appeal or grievance process, if necessary, will be governed for:

- i. Faculty members by [Chapter 7 of the Faculty Handbook](#) and [Chapter 9 of the Faculty Handbook](#).
- ii. Staff members by applicable [Merit System Rules](#) and contracts and/or University policies in the [Policy Library](#) for organized merit, non-organized merit, professional & scientific, and student employees.
- iii. Graduate assistants by [Chapter 9 of the Graduate College Handbook \(Rights & Responsibilities\)](#).
- iv. Students by the [Student Code of Conduct](#).
- v. Contractors, visitors, and third-parties may file an appeal in writing with OEO.

Violations of this Policy may lead to discipline up to and including termination or separation from the University. If the respondent is a unit or department, discipline may include changes to policies or processes, or other appropriate remedial actions. If the respondent is a third-party, discipline may include the inability to contract or partner with the University, or other appropriate remedial actions.

## **5. Respect for Privacy**

### **A. University's Expectation to Respect Privacy**

- i. ISU is committed to protecting the privacy of all individuals involved in the reporting, investigation, and/or adjudication of incidents of discrimination and harassment. ISU is also committed to providing assistance and resources to help all campus community members gain information about this Policy and make informed choices. In all cases, the University will disclose the details of reports or complaints of potential violations of this Policy only with individuals who have a legitimate administrative or legal reason to be so informed, and records will not be disclosed outside the University unless required by policy, law, or legal subpoena.
- ii. Persons seeking general information or guidance about discrimination or harassment may be concerned about whether the information they share with another person will be kept private or confidential. Legal and policy obligations may require the university to take some action once it has knowledge of potential discrimination or harassment within its employment and/or educational programs and activities. Because of their positions of authority, certain University personnel including, central administrators, deans, directors, department chairs, supervisors, and managers are obligated to take action and notify the [Office of Equal Opportunity](#) (OEO) when they are aware of or otherwise receive reports of discrimination or harassment. In addition, [Responsible Employees](#) have an obligation to notify OEO when they receive notice of potential discrimination or harassment. Individuals should seek out a [confidential resource](#) if they wish to discuss a potential incident of discrimination or harassment without putting the University on official notice of the concern.

### **B. Parties' Expectation to Respect Privacy**

- i. Complainants, respondents, and all other participants in the complaint resolution process are expected to respect the privacy of the proceedings and circumstances giving rise to the complaint. Until resolution has been achieved, participants should be careful not to undermine or interfere with the investigation and/or engage in any conduct that may be interpreted as retaliatory in nature.

- ii. Dissemination of documents relating to complaints of discrimination and harassment and/or to the investigation of such complaints, other than as necessary to acquire support, counsel, or advice or pursue an appeal, grievance, or other legal or administrative proceeding, is prohibited.

## 6. Coordination with Other University Policies

This Policy addresses discrimination and harassment based on [Protected Status](#). Concerns and reports of Title IX Sexual Harassment, including sexual assault, dating violence, domestic violence, and stalking are addressed by the University's Title IX Policy [link]. In appropriate matters and under appropriate circumstances both this Policy and the Title IX Sexual Harassment Policy may apply. The Title IX Coordinator will assess the totality of the conduct and circumstances present and determine policy and procedure application.

The policies, procedures, and information described below also relate to and interact with this Policy:

- [Academic Disability Accommodation Information](#)
  - Describes the process by which students may request reasonable academic accommodation for qualified disabilities. The investigation and resolution of reports that the University and/or a University employee has denied or otherwise not provided reasonable academic accommodation is addressed by the Student Accessibility Services (SAS) [Academic Accommodation Grievance Process](#). Students experiencing difficulties with accommodations should contact Student Accessibility Services in a timely manner and follow the process outlined for assistance.
  - Overseen by Student Accessibility Services
- [Academic Accommodation Grievance Process](#)
  - Describes the grievance process for students and applicants for admission who believe that the University and/or a University employee has denied or otherwise not provided reasonable academic accommodation for qualified disabilities.
  - Overseen by Student Disability Resources
- [Workplace Disability Accommodation Information](#)
  - Describes the process by which employees may request reasonable workplace accommodation for qualified disabilities
  - Overseen by University Human Resources
- [Religious Accommodation Information](#)
  - Describes the process by which students and employees may request reasonable accommodation for religious practices



- Overseen by the Office of Equal Opportunity
- [Student Code of Conduct](#)
  - Details prohibited conduct and describes the student disciplinary process.
  - Overseen by the Division of Student Affairs and the Office of Student Conduct
- [Graduate College Handbook](#)
  - Resource for policies and procedures that pertain to graduate students and postdoctoral scholars
  - Members of the graduate faculty craft policies through their elective representatives on the Graduate Council
- [Consenting Relationships Policy](#) and [Faculty Handbook 7.2.2.1.1](#)
  - Describes those consenting relationships that are of concern to the University and are therefore prohibited, including voluntary and consensual relationships where there is a reporting or evaluation relationship between the parties
  - Overseen by the Office of Senior Vice President and Provost and University Human Resources
- [Violence-Free University](#)
  - States ISU's commitment to providing students, employees, and visitors with a safe, non-threatening environment
  - Overseen by the ISU Police Department
- [Non-Retaliation Against Persons Reporting Misconduct](#)
  - States ISU's commitment to creating an environment that encourages the reporting of misconduct without fear of retaliation
  - Overseen by the Office of University Counsel
- [Jeanne Clery Act Reporting](#)
  - Explains ISU's Clery Act annual reporting and timely warning notification process
  - Overseen by the ISU Police Department / Department of Public Safety
- [Reporting Responsibility - Violations](#)
  - Explains the responsibility of students, employees, and visitors to report potential or suspected violations of policies, regulations, and laws
  - Overseen by the Office of University Counsel
- [Faculty Conduct Handbook](#) (Chapter 7 – Conduct Policy) (Chapter 9 – Grievances)
  - Sets the standards of personal conduct for ISU faculty members

- Overseen by the Office of the Senior Vice President and Provost
- [Grievance Management](#) (Non-faculty employees)
  - Explains the grievance management process for non-faculty employees
  - Overseen by University Human Resources
- [Appeal of Academic Grievances](#) (University Catalog - students)
  - Explains the process for students to file academic/classroom related grievances.
  - Overseen by applicable College(s)
- [Uniform Rules of Personal Conduct](#)
  - Sets the standards of personal conduct for members of the Board of Regents State of Iowa community members
  - Overseen by the Board of Regents for the State of Iowa
- [Statement on Ethics - Professional & Scientific Staff](#)
  - Sets the standards of personal conduct for ISU professional and scientific employees
- [Volunteers](#)
  - Establishes rules and procedures relating to volunteers and their relationship with the University for the purpose of minimizing risk and providing protection for the interests of the broader community
  - Overseen by the Office of Risk Management
- [Youth Activities, Pre-Collegiate Programs and Camps](#)
  - States ISU commitment to the health, safety and well-being of youth involved in camps, pre-collegiate programs and other youth activities.
  - Overseen by the Office of Risk Management