

**Procedures, Applications, and Guidance:  
Title IX Sexual Harassment, Sexual Assault, Dating Violence, Domestic  
Violence, and Stalking Policy**

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## Introduction

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 Regent policies relating to Title IX sexual harassment, sexual assault, dating violence, domestic violence, and stalking (collectively referred to herein as “Prohibited Title IX Sexual Harassment”). This procedures, applications, and guidance document is intended to create a process for reporting, responding to, addressing, investigating, and adjudicating reports of Prohibited Title IX Sexual Harassment. This document is a supplement to the university’s [Title IX Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking Policy](#). The policy and this document are collectively referred to hereafter as the “Policy.”

In keeping with its commitment to offer a fundamentally fair and impartial process for all parties involved, ISU reserves the right to adapt certain aspects of the Policy, in specific circumstances and in its sole discretion, in order to meet the interests of all involved parties, including the university.

In addition, the university reserves the right to extend the time limits described in the Policy, in specific circumstances and in its sole discretion, in order to ensure a fundamentally fair and impartial process and to meet the interests of all involved parties, including the university.

### 1. Prohibited Title IX Sexual Harassment - Definitions and Guidance

**Prohibited Title IX Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:

- A. Quid pro quo sexual harassment** – meaning, an employee (faculty, staff, or student-employee) of the university conditioning the provision of an aid, benefit, or service of the university on an individual’s participation in unwelcome sexual conduct.
- B. Severe, pervasive, and objectively offensive sexual harassment** – meaning, unwelcome conduct (physical and/or verbal conduct) determined by a reasonable person to be so

severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education programs or activities.

- i. Elements of severity, pervasiveness, and objective offensiveness must be evaluated in light of the known circumstances and depend on the facts of each situation, but must be determined from the perspective of a reasonable person standing in the shoes of the [Complainant](#).
- ii. No intent required. Unwelcome conduct so severe, pervasive, and objectively offensive that it denies a person equal educational opportunity is actionable regardless of the [Respondent's](#) intent to cause harm.

**C. Sexual Assault** – meaning, conduct classified as “Sex Offenses” under the uniform crime reporting system. (See, 20 U.S.C. 1092(f)(6)(A)(v)).

*Sex Offenses:* Any sexual act including Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape directed against another person, without the [consent](#) of the victim, including instances where the victim is incapable of giving consent.

- i. Rape- Sexual bodily connections with a person, without the consent of the victim, including instances where the victim is incapable of giving consent because their age or because of their mental or physical incapacity.
- ii. Sodomy- Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- iii. 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, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because their temporary or permanent mental or physical incapacity.
- iv. Fondling- The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because their age or because of their temporary or permanent mental or physical incapacity.
- v. Incest- Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- vi. Statutory Rape- Non-forcible sexual intercourse with a person who is under the statutory age of consent.

**D. Dating violence** – meaning, violence committed by a person:

- i. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- ii. where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship. (See, 34 U.S.C. 12291(a)(10))

**E. Domestic violence** -- meaning, felony or misdemeanor crimes of violence committed by:

- i. a current or former spouse of the victim;
- ii. by a person with whom the victim shares a child in common;
- iii. by a person who is cohabitating with or has cohabitated with the victim as a spouse;
- iv. by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction; or
- v. 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. (See, 34 U.S.C. 12291(a)(8))

**F. Stalking** – meaning, engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- i. fear for their safety or the safety of others; *or*
- ii. suffer substantial emotional distresses. (See, 34 U.S.C. 12291(a)(30)).

In determining whether reported conduct violates this Policy, the university will consider the totality of the circumstances involved.

Anyone may experience Prohibited Title IX Sexual Harassment, irrespective of gender identity or sexual orientation. Anyone may commit Prohibited Title IX Sexual Harassment, irrespective of gender identity or sexual orientation. Prohibited Title IX Sexual Harassment can occur between individuals of the same sex and/or gender or different sexes and/or genders.

## 2. Important Terms, Concepts, and Guidance

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

**A. Complainant, Respondent, Witness** – This Policy uses the terms complainant, respondent, and witness as follows:

- i. Complainant – refers to an individual who is alleged to be the victim of conduct that could constitute Prohibited Title IX Sexual Harassment.
  - A complainant must be participating in, or attempting to participate in, the university’s education programs or activities at the time of filing a [Formal Complaint](#) under this Policy.
  - The university’s Title IX Coordinator (or appropriate designee in all instances in this Policy) has the discretion to initiate a Formal Complaint and investigation when they believe that with or without the complainant’s desire to participate in an investigation, the university has a duty to investigate so as not to be deliberately indifferent. The Title IX Coordinator may consider a variety of factors, including a pattern of alleged misconduct by a particular respondent and whether the allegations involve violence, use of weapons, or similar factors in deciding whether to initiate a Formal Complaint and investigation. The Title IX Coordinator’s decision to initiate a Formal Complaint and investigation may occur only after the Title IX Coordinator has promptly contacted the person alleged to have been victimized by sexual harassment to discuss availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, and explain to the complainant the process for filing a Formal Complaint.
  - Where a complainant desires to initiate a Formal Complaint and investigation process, the complainant cannot remain anonymous. When a Formal Complaint is signed by the Title IX Coordinator rather than filed by a complainant, the written notice of allegations sent to all parties must detail the allegations, including the identity of the parties if known.
  - The university has discretion to consolidate Formal Complaints in situations that arise out of the same facts or circumstances and involve

more than one complainant, more than one respondent, or what amount to counter-complaints by one party against the other.

ii. **Respondent** – refers to an individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Title IX Sexual Harassment.

- Any individual can be a respondent, whether such individual is a student, faculty, or staff member of the university, or other person with or without any affiliation with the university.
- The university will investigate a complainant’s Formal Complaint even if the complainant does not know the respondent’s identity, because an investigation may reveal the respondent’s identity, at which time the respondent would receive written notice of the Formal Complaint.

iii. **Witness** – refers to an individual who may have information relevant to a report of Prohibited Title IX Sexual Harassment. A witness may be a university student, faculty member, staff member, third-party, or expert.

**B. Obligation to provide truthful information** – All university community members are expected to provide truthful information in any report, investigation, or hearing under this Policy. Knowingly making materially false statements or knowingly submitting materially false information in bad faith in any complaint, investigation, or hearing under this Policy is prohibited and subject to disciplinary action. 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 or no policy violation is found to have occurred, and a determination of responsibility for the underlying Prohibited Title IX Sexual Harassment, is not sufficient alone to conclude that any party made a materially false statement in bad faith.

**C. Preponderance of the Evidence** – The university applies the “preponderance of the evidence” standard in determining whether a respondent is responsible for violating this Policy.

iii. **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 is responsible for violating this Policy.

- Where the evidence in a matter is ‘equal’ or ‘level’, the preponderance of the evidence standard results in a finding that the respondent is not responsible.
- 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. Consent** –The university defines consent for purposes of prohibited [Sexual Assault](#) as follows:

- i. **General definition:** Consent is an informed, voluntary, and active agreement expressed through affirmative words or actions, and mutually understandable to all parties involved, to engage in a specific sexual act at a specific time. Consent must be:
  - *Informed:* the individuals know about and understand the specific sexual activity that they are agreeing to;
  - *Voluntary:* the individuals agree to the specific sexual activity freely without coercion, intimidation, or undue influence; and
  - *Active:* the individuals communicate their agreement to engage in the specific sexual activity through affirmative words and/or actions that are reasonably recognizable, i.e., not silence, passivity, lack of resistance, or the absence of no.
- ii. **Additional guidance:** The presence or absence of consent will be evaluated on the basis of the totality of the circumstances, including the context in which the reported incident occurred. In evaluating whether specific sexual activity was consensual, the university will consider the presence of any force, threat of force, intimidation, or coercion; whether the complainant had the capacity to give consent; and, whether the communication (through words and/or actions) between the parties would be interpreted by a reasonable person (under similar circumstances and with similar identities) as a willingness to engage in a specific sexual act. No party has the burden of proof to prove the presence or absence of consent, a respondent need not prove the presence of consent, and a complainant need not prove the absence of consent.



- iii. Consent cannot be obtained by force. Force includes the use of physical violence, threats, intimidation, and/or coercion.
- *Physical violence* is present when an individual exerts control over another through the use of physical force, including but not limited to, hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon.
  - *Threats* are words or actions that would compel a reasonable person (under similar circumstances and with similar identities) to engage in unwanted sexual activity, including but not limited to, threats to harm a person physically, to reveal private information to harm a person's reputation, to harm a person academically or economically, to harm something or someone close to the person, including pets.
  - *Intimidation* is an implied threat that causes reasonable fear in another person, including but not limited to, using one's physical presence in an intimidating manner, blocking an exit, or withholding a person's car keys.
  - *Coercion* is the use of an unreasonable amount of pressure to gain sexual access. When a person makes clear a decision to stop sexual activity, or to not to participate in a specific form of sexual activity, continued pressure may be coercive. In evaluating whether coercion was present, the university will consider: the intensity of the pressure; the frequency of the pressure; the duration of the pressure; and the degree of isolation of the person being pressured. Generally, coercion is more than effort to persuade, entice, or attract another person to engage in sexual activity.
- iv. Consent cannot be obtained by taking advantage of a person who does/did not have the capacity to consent, where the person initiating sexual activity knew or reasonably should have known the other person lacked this capacity. Capacity means that a person has the ability to make informed, rational judgments about whether or not to engage in sexual activity. Under this Policy, the following people are considered to lack capacity and therefore are unable to consent to sexual activity:
- Persons who are asleep, unconscious, or involuntarily restrained physically.

- Persons who are [incapacitated](#) due to the influence of drugs, medication, and/or alcohol.
  - Persons who are unable to communicate consent due to a mental or physical condition.
  - Persons who have a bodily impairment or handicap that substantially limits the person's ability to resist or flee.
  - Persons who are not of legal age to consent according to Iowa Code (see Iowa Code § 709.4).
- v. Consent cannot be assumed, there must be an affirmative expression through words and/or actions that all parties involved consented to specific sexual activity at a specific time. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. Important points regarding consent include:
- Consent to one particular form of sexual activity does not constitute consent to any other form of sexual activity (e.g., consent to engage in kissing does not constitute consent to engage in intimate touching or fondling).
  - Consent on a prior occasion does not constitute consent on a subsequent occasion.
  - Consent to sexual activity with one person does not constitute consent to sexual activity with any other person.
  - The existence of a prior or current intimate relationship does not, in itself, constitute consent to any sexual activity.
  - Consent can be withdrawn or modified at any time, and sexual contact must cease immediately once consent is withdrawn.
  - Consent cannot be inferred from silence, passivity, or lack of resistance; and relying on nonverbal communication alone may result in a violation of this Policy.

**E. Incapacitation** – Individuals who are incapacitated cannot consent to sexual activity. Therefore, engaging in sexual activity with an incapacitated person is a violation of this Policy. The university defines incapacitation as follows:

- i. General definition: A person who is incapacitated is unable, temporarily or permanently, to understand the facts, extent, or implications of sexual activity because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition, being asleep or unconscious, or based on their age (generally, minors under the age of 16 pursuant to Iowa Code § 709.4).
- ii. Additional guidance: In evaluating the presence or absence of consent in cases of potential incapacitation, the university asks two questions: *one*, did the person initiating sexual activity know that the other person was incapacitated? And if not, *two*, would a sober, reasonable person in the same situation have known that the other person was incapacitated? If the answer to either of these questions is “yes,” consent was absent and the conduct is likely a violation of this Policy.
- iii. When alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. When drug use is involved, incapacitation is a state beyond being under the influence or impaired by use of the drugs. A person is not necessarily incapacitated merely as a result of drinking alcohol or using drugs. Alcohol and other drugs impact each individual differently, and determining whether an individual is incapacitated involves an individualized assessment.
- iv. The university does not expect community members to be medical experts in assessing incapacitation. But, community members are expected to be aware of and look for common and obvious warning signs that suggest that a person may be incapacitated or approaching incapacitation. Factors to consider include but are not limited to:
  - Slurred or incomprehensible speech
  - Inability to stand, walk, or move without assistance
  - Inability to complete basic tasks such as use a smartphone, drink from a bottle or cup without spilling, hold objects without dropping, etc.
  - Combativeness, emotional volatility, or other unusual behavior

- Vomiting and/or incontinence
- Inability to remove clothing without assistance
- Strong smell of alcohol around the person
- Presence of bloodshot eyes and/or the inability to maintain eye contact

(These factors and other relevant factors are always consider along with the totality of the circumstances present)

A person who is incapacitated or approaching incapacitation may not be able to understand some or all of the following questions:

- “Do you know where you are?”
- “Do you know how you got here?”
- “Do you know the date and time of day?”
- “Do you know whom you are with?”
- “Do you know what is happening?”

- v. The impact of alcohol and/or drug use on a person may change over a period of time based on a variety of subjective factors, including the amount of substance consumed, the type of substance consumed (i.e., beer versus hard liquor), the speed of consumption, tolerance level, interaction with other substance use, food consumption, body mass, hormones, and metabolism. Accordingly, one should be cautious before engaging in sexual activity when any party has been drinking alcohol or using other drugs. The use of alcohol or other drugs can lower inhibitions and create an atmosphere of confusion about whether consent is effectively sought and freely given. If there is any doubt as to the level or extent of one’s own or another person’s ability to understand the facts, extent, or implications of sexual activity, the advisable course of action is to forego all sexual activity.
- vi. A person’s voluntary intoxication or drunkenness is never an excuse for or a defense to Prohibited Title IX Sexual Harassment.

**F. Alcohol Use and Prohibited Title IX Sexual Harassment** – National research studies have found that the majority of sexual assaults on college campuses involve a situation in which the respondent, the complainant, or all parties consumed alcohol, and that sexual assaults are more likely to occur in settings where alcohol is consumed. Accordingly,

alcohol should be viewed as a risk factor for sexual assault and other forms of Prohibited Title IX Sexual Harassment.

The university is committed to reducing alcohol use and excessive drinking through comprehensive programs, including bystander intervention, guidance regarding healthy relationships, reducing alcohol availability, and eliminating high-risk drinking and drug use.

Lower-risk drinking involves:

- Thinking about whether you will drink and what you will drink before drinking
- Drinking only one drink per hour
- Knowing how you will get home safely before you go out
- Going out as a group and coming home as a group and not leaving friends behind
- Eating a meal before drinking
- Always knowing what you are drinking and knowing your limits
- Alternating alcohol free drinks throughout the evening
- Trust your instincts, if a situation doesn't seem right, leave or call law enforcement or someone else who can help

Higher-risk drinking involves:

- Chugging, drinking games, and taking shots
- Drinking to get drunk or to blackout
- Not knowing what is in your drink or leaving a drink unattended
- Drinking or going out alone or without a plan on how to return home safely
- Drinking anything out of a punch bowl, trough, hose, or funnel
- Driving after drinking or riding with someone who has been drinking
- Mixing alcohol with medicines/drugs

Iowa law and university policy prohibit underage alcohol consumption, providing alcohol to minors, and illegal drug use. Students under the age of 21 may not consume alcohol anywhere on campus. Any student found responsible for violating alcohol policy or law can face university sanctions and may be arrested by ISU and Ames police. Additional information concerning these issues may be found in the [Alcohol Use – Students and Student Organizations Policy](#) and the [Alcohol, Drugs, and Other Intoxicants Policy](#).

**G. Amnesty** – The university strongly encourages the reporting of Prohibited Title IX Sexual Harassment and values the full participation of all parties in the investigation process. As a result, the university generally does not hold Complainants, Respondents, and/or witnesses accountable for non-egregious student code violations (including alcohol or drug possession related violations) that may have occurred at the time of the reported

Prohibited Title IX Sexual Harassment. Violations that placed the health or safety of others at risk, involve plagiarism or academic dishonesty, or are otherwise egregious are generally not afforded such amnesty.

In addition, to better ensure that minors at health risk as a result of alcohol or other intoxicant or who seek emergency safety protection receive prompt and appropriate attention, ISU provides health/safety amnesty to remove perceived barriers to calling for and seeking assistance. Underage individuals who seek emergency assistance for themselves or on behalf of another individual will not be charged with non-egregious student code violations (including alcohol or drug possession related violations) that may have occurred in relation to the emergency.

In addition, when individuals report Prohibited Title IX Sexual Harassment to the ISU Police Department and/or the Ames Police Department, these law enforcement agencies have a practice of not pursuing charges for improper use of alcohol or drugs against reporting parties.

- H. Academic Freedom and Freedom of Speech** – The university is committed to the principles of academic freedom and freedom of speech. As such, in determining whether Prohibited Title IX Sexual Harassment has occurred and what type of remedy, if any, might be appropriate in a given matter, 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 unpopular or controversial.

The definition of Prohibited Title IX Sexual Harassment in this Policy is meant neither to proscribe nor to inhibit discussions, in or out of the classroom, of complex, controversial, or sensitive matters, including matters involving sex, gender, sexuality, sexual orientation, sexual behavior, or gender identity, when in the judgment of a reasonable person they arise for legitimate pedagogical purposes. The mere expression of views, words, symbols or thoughts that some people find offensive, does not necessarily constitute a violation of this Policy. For additional guidance on these issues see the university’s Discrimination and Harassment Policy.

- I. Prevention and Awareness Training and Programing** – ISU is committed to the prevention of Prohibited Title IX Sexual 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 ongoing training and related education.

Educational programs include information on how and where to report incidents of Prohibited Title IX Sexual Harassment, resources and services available to all those impacted by Prohibited Title IX Sexual Harassment, how to prevent and identify

Prohibited Title IX Sexual Harassment, as well as safe and positive options for bystander intervention. Special training is provided to those community members involved in receiving reports, investigating, adjudicating and otherwise responding to reports of Prohibited Title IX Sexual Harassment at the university.

ISU is also a proud institutional participant in the Green Dot program. Green Dot is built on the premise that in order to measurably reduce the perpetration of interpersonal violence, including sexual assault, intimate partner violence, and stalking, a cultural shift is necessary. In order to create such a cultural shift, a critical mass of people is needed to engage in a new set of behaviors that make violence less sustainable within the community. Each “new behavior” is a green dot, and includes any choice, behavior, word or attitude that promotes safety for everyone and communicates intolerance for interpersonal violence in our ISU community. Additional information about ISU’s Green Dot program is available [here](#).

**J. Bystander Intervention** – ISU promotes the Green Dot program. Green Dot is a comprehensive violence prevention strategy that address all forms of power-based personal violence such as sexual assault, dating violence, and stalking. Green Dot is any behavior, choice, word or attitude that promotes safety for everyone and communicates intolerance for violence. Bystanders play a critical role in the prevention of Prohibited Title IX Sexual Harassment. The university encourages all community members to take reasonable and prudent actions to prevent or stop acts of Prohibited Title IX Sexual Harassment. Each situation is unique and each person has different abilities when it comes to intervening. Intervention steps may include:

- Direct – Do something yourself by asking if the person needs assistance or calling out the behavior before it escalates
- Delegate – If you can’t do something, ask a friend for help, talk to someone that has more authority or ability to intervene in the moment (Police, CA, Coach, Faculty or Staff member, Peer, Bartender, etc.)
- Distract – If you don’t want to address the situation directly, think of a distraction that will defuse the situation or calm things down in the moment.

When considering intervention options, it is most important for individuals to make the safest choice available.

### **3. Privacy, Confidentiality, Requests for No-University Action, and Related Reporting Responsibilities**

With respect to the university’s processes and resources related to reports of [Prohibited Title IX Sexual Harassment](#), it is important to consider the related issues of privacy and confidentiality. While these terms sound similar, they are distinct concepts. It is also

important to understand the different reporting responsibilities that university employees and campus and community resources have. While all employees and resources are committed to respecting the privacy of all individuals involved in reports of Prohibited Title IX Sexual Harassment, only certain employees and resources (as identified in this Policy) are able to maintain confidentiality with respect to reports and information relating to Prohibited Title IX Sexual Harassment.

ISU is committed to protecting the privacy of all individuals involved in the reporting, investigation, and/or adjudication of incidents of Prohibited Title IX Sexual 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 share the details of reports of Prohibited Title IX Sexual Harassment only with university officials, law enforcement personnel, and other 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 law or legal subpoena.

Some resources, both on and off-campus are able with very limited exceptions to maintain complete confidentiality with respect to reports of Prohibited Title IX Sexual Harassment. This means that they will not share with anyone (including law enforcement, university officials, or anyone else) any information relating to reports of Prohibited Title IX Sexual Harassment, including information that identifies or might be used to identify persons related to reports of Prohibited Title IX Sexual Harassment, unless the speaker consents to the disclosure in writing, or where there is an imminent threat to the safety of the speaker or others, or the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18. These confidential resources are specifically identified in this Policy.

#### **A. Privacy –**

Privacy refers to the way in which the university will treat reports and information relating to Prohibited Title IX Sexual Harassment. Reports and information relating to Prohibited Title IX Sexual Harassment will be shared only with individuals who have a legitimate administrative or legal reason to be so informed in order to assist in the assessment, investigation, and/or resolution process. All campus community members who are involved in the university's response to reports of Prohibited Title IX Sexual Harassment receive training in how to protect private information in accordance with university policy and state and federal law.

The university will make reasonable efforts to investigate and respond to reports of Prohibited Title IX Sexual Harassment under this Policy, and information may be disclosed to participants in an investigation/adjudication as necessary to facilitate the thoroughness and integrity of the investigation/adjudication. In all such proceedings, the university will take into consideration the privacy of the parties to the extent reasonably possible.

#### **B. Confidentiality –**



Confidentiality refers to the protections provided to information disclosed within legally-protected or privileged relationships pursuant to university policy and/or federal and State of Iowa law, including communications with licensed medical and clinical care professionals, licensed mental health care providers and counselors, ordained clergy, personal attorneys, and certain victim counselors as defined by Iowa Code § 915.20.

These confidential resources can engage in confidential communications when the information is disclosed within the scope of that person's professional services. When an individual shares information with a confidential resource (on campus or in the community) as a confidential communication in the course of a protected relationship, the confidential resource cannot disclose the information (including any personally identifiable information) to any third party without the individual's written permission or unless required by ethical or legal obligations which compel the professional to reveal such information. For example, information may be disclosed when the individual gives written consent for its disclosure, there is an imminent concern that the individual will likely cause serious physical harm to self or others, or the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18. An individual's medical and counseling records are also considered confidential documents. The university will not allow, rely upon, or otherwise use questions, evidence or information that is legally privileged or confidential.

### **C. Requests for No-University Action –**

If an individual reports to the university they have experienced an incident of Prohibited Title IX Sexual Harassment, but requests that the university not investigate the incident, requests that no disciplinary action be taken, requests that the reported perpetrator not be notified, requests that their name not be disclosed to the reported perpetrator, or makes any similar request, the university will normally be able to honor that request. However, there are situations in which ISU must override such requests in order to meet its legal and ethical obligations to respond appropriately to Prohibited Title IX Sexual Harassment.

It is important that individuals who request no-university action know that the university strictly prohibits retaliation (as detailed in this Policy), and that the university works hard to prevent retaliation and responds seriously if retaliation does occur. In addition, requests for no-university action may severely limit ISU's ability to respond fully to the incident, including pursuing disciplinary action against the reported perpetrator. For example, a respondent is entitled to know the name of the complainant and information regarding the nature of the report in order to respond to Formal Complaints under this Policy. Accordingly, individuals who request no-university action will be asked to document their request in writing.

When a request for no-university action could undermine the safety of the individual and/or campus community, the Title IX Coordinator will evaluate the request to

determine if it can be honored. In evaluating such requests, the university considers a range of factors, including:

- The seriousness of the reported conduct (e.g., force or violence present, use of a weapon to commit the offense, use of drugs to facilitate the offense, offense was committed by multiple perpetrators, offense involved a minor, etc.)
- Circumstances suggesting there is an increased risk of the reported perpetrator committing additional acts of Prohibited Title IX Sexual Harassment (e.g., past reports against same reported perpetrator, reported perpetrator has an arrest record or disciplinary history at other institutions for similar conduct in the past, the reported perpetrator threatened further acts of Prohibited Title IX Sexual Harassment or violence, etc.)
- Circumstances suggesting there is an increased risk of Prohibited Title IX Sexual Harassment occurring under similar circumstances (e.g., history of incidents occurring at a particular location or involving a particular group/organization)
- Whether the university possesses other means of obtaining relevant evidence (e.g., security cameras, other witnesses, physical evidence, etc.)

If the university determines that it can honor the individual's request for no-university action, the individual may still seek out on and off-campus support and resources, including non-disciplinary remedial measures. The university may also consider broader remedial action, as appropriate, such as increased monitoring, supervision, or security at locations where reported Prohibited Title IX Sexual Harassment occurred, and increased education and prevention efforts for targeted population groups.

In cases where the balance of factors compels the university to investigate the report and pursue disciplinary action in a manner that requires the disclosure of the reporting party's identity to the reported perpetrator, the reporting party will be told in advance, and the university will work with the reporting party to maximize their safety and privacy, as well as reiterating the university's non-retaliation policy with all parties. Under no circumstances will a reporting party be forced to participate in an investigation or adjudication. If the reporting party does not wish to participate in an investigation or adjudication, the Title IX Coordinator may file the Formal Complaint in the matter.

Individuals wishing to remain anonymous to all university personnel can make a report through the university's discrimination, harassment, and assault hotline at 515-294-1222,

or through an anonymous email account to [eooffice@iastate.edu](mailto:eooffice@iastate.edu). However, electing to remain anonymous may greatly limit the university's ability to stop the reported conduct, collect evidence, provide support, and/or take effective action against individuals or organizations accused of violating this Policy. Generally, formal investigation and formal adjudication is not possible with an anonymous report.

#### **D. Responsibility to Report Prohibited Title IX Sexual Harassment –**

ISU strongly encourages anyone who has experienced, witnessed, or learned about a potential incident of Prohibited Title IX Sexual Harassment to talk to a [resource](#) about what happened, to ensure they are informed of the available support, resources, and applicable complaint processes, and to allow the university to respond appropriately. Anyone may contact or report potential violations of this Policy to the Title IX Coordinator. The information below explains the responsibility of certain employees, so called "Responsible Employees," to report information brought to their attention regarding incidents of Prohibited Title IX Sexual Harassment to the Title IX Coordinator. It also explains that certain employees and resources (both on campus and in the community) are available to speak with individuals about incidents of Prohibited Title IX Sexual Harassment and maintain the individual's request for confidentiality, so called "[Confidential and Campus Confidential Resources](#)."

- i. **Responsible Employees**: A "Responsible Employee" is a university employee who has been identified as having the responsibility of reporting potential violations of this Policy to the university's Title IX Coordinator. A Responsible Employee may learn about a potential violation of this Policy through various means, including but not limited to receiving a report from a student, employee, or third-party or by witnessing a potential violation.

At ISU, Responsible Employees include:

- All instructors, including full-time professors, adjuncts, lecturers, adjunct instructors, and any others who offer classroom instruction or office hours to students;
- All advisers;
- All coaches, trainers, and other athletic staff that interact directly with students;
- All student affairs administrators;
- All residential hall staff;
- All supervisors and university officials; and

- All employees who work in offices that interface with students.

When an individual tells a Responsible Employee about an incident of Prohibited Title IX Sexual Harassment under this Policy, that individual has the right to expect the university to take prompt and appropriate steps to respond and address the report. Therefore, Responsible Employees are responsible for promptly reporting information they learn concerning Prohibited Title IX Sexual Harassment to the university's Title IX Coordinator.

Responsible Employees are responsible for reporting all the information they know about a matter, including the names of the individuals affected and reported perpetrators, any witnesses, the date, time and location, and any other relevant details to the Title IX Coordinator. Responsible Employees should not discuss or share any information related to the incident with anyone other than those directly involved in handling the university's response, unless they received the individual's prior consent or in the event of an emergency or existing threat.

Responsible Employees cannot promise individuals confidentiality, anonymity, or withhold relevant information from the Title IX Coordinator. Accordingly, Responsible Employees should make every effort to ensure that all individuals, including students, understand that they are responsible for making a report to the Title IX Coordinator in the event they are made aware of an incident of Prohibited Title IX Sexual Harassment. If an individual expresses hesitation in speaking with a Responsible Employee because of their responsibility, the Responsible Employee should inform the individual of [Confidential and Campus Confidential Resources](#). Responsible Employees are not required to report information disclosed during public awareness events (e.g., "Take Back the Night," candlelight vigils, protests, "survivor speak-outs,") or information disclosed during an individual's participation as a subject in an Institutional Review Board-approved human subjects research protocol.

In response to a report from a Responsible Employee, the Title IX Coordinator will promptly contact the potentially impacted party(ies) to discuss the availability of [supportive measures](#), consider the party's wishes with respect to supportive measures, inform the party of the availability of supportive measures with or without the filing of a Formal Complaint, and explain the process for filing a [Formal Complaint](#).

- ii. [Confidential Resources and Campus Confidential Resources](#): Certain university employees – based on State of Iowa law, their professional licensure and/or the nature of their role on campus – are available to speak with individuals about incidents of Prohibited Title IX Sexual Harassment and maintain the individual's request for confidentiality (i.e., they will not share information with anyone else). Confidential Resources and Campus Confidential Resources will not disclose

information about Prohibited Title IX Sexual Harassment unless the individual approves such disclosure in writing or they are required to do so by law. In accordance with State of Iowa law, exceptions to confidentiality will be made in cases involving risk of serious harm to self or others and disclosures of child abuse.

- **Confidential Resources:** Under Iowa law and university policy, communications with certain individuals are considered completely confidential and/or privileged. This means that, with very limited exceptions, any information shared by a party may not be used against them or shared with others. Generally, confidentiality and/or privilege applies when a party seeks professional services from the following persons: psychological counselor (including counselors at ISU Student Counseling Services); health care provider (including medical professionals at ISU Thielen Student Health Center); personal attorney; religious/spiritual adviser; and victim counselors as defined by Iowa Code § 915.20 (including ACCESS counselors). Individuals should always discuss whether confidentiality and privilege in fact applies and the scope of any confidentiality and privilege with the person with whom they are seeking professional services.

Please note, faculty, staff and other employees who are licensed mental health workers or are licensed medical workers, but who are not working in that capacity, such as faculty members in psychology, social work, nursing, etc., are not confidential employees under this Policy.

- **Campus Confidential Resources:** By designation of university policy and based on the nature of their role on campus, Campus Confidential Resources are not Responsible Employees in relation to reports of Prohibited Title IX Sexual Harassment. This means that Campus Confidential Resources are not responsible for reporting Prohibited Title IX Sexual Harassment to the Title IX Coordinator, and will not testify in any formal university proceeding relating to a report of Prohibited Title IX Sexual Harassment.

Please note, Campus Confidential Resources are only recognized under university policy, and are not recognized under State of Iowa law as confidential or privileged. This means that information shared with a Campus Confidential Resource may be subject to legal subpoena and/or used as evidence in any external criminal or civil proceeding.

In speaking with a Campus Confidential Resource, an individual agrees that the Campus Confidential Resource will not disclose the contents of their conversation or disclose personally identifiable information, unless given express permission to do so or required by law. This agreement promotes access to resources and support, and helps provide a safe and neutral place for discussing concerns of a sensitive nature. If an individual desires to put the university on notice of a potential policy or legal violation (including reports of Prohibited Title IX Sexual Harassment under this Policy), the individual should contact the Title IX Coordinator. Campus Confidential resources can assist individuals in connecting with these [reporting options](#).

#### **E. Role of Law Enforcement –**

The university encourages any individual who has experienced Prohibited Title IX Sexual Harassment to contact the ISU Police Department (ISU PD) and/or local law enforcement. ISU PD responds to emergency situations on the ISU campus and the immediate vicinity, and typically communicates and works with the Title IX Coordinator to assist in investigations and incident response.

Individuals may request assistance from the Title IX Coordinator regarding how to make a report to law enforcement and how to seek legal protective orders. Individuals may decide not to notify law enforcement authorities, and still proceed with a university investigation.

A university investigation under the procedures outlined in this Policy may be initiated and/or proceed simultaneously along with a law enforcement investigation. The university will cooperate with law enforcement and may temporarily delay the internal process so as not to interfere with concurrent law enforcement activity.

The determination by law enforcement whether or not to prosecute a respondent or the outcome of a criminal proceeding does not determine whether a violation of university policy has occurred. Records of university proceedings may be subpoenaed for a criminal prosecution.

In some instances, based on a heightened threat, or potential threat to the safety of the individuals involved, or the larger university community, university officials may determine it is necessary to make a third party complaint to law enforcement, despite the individual's decision not to do so. In such instances, the university will attempt to inform the individual prior to making a third party complaint.

#### **F. Clery Act Reporting –**

In adherence with the [Clery Act and the Violence Against Women Reauthorization Act](#), the university includes statistics about certain crimes in its annual security report and provides these statistics to the U.S. Department of Education. These acts also require the

university to issue timely warnings about certain crimes that occur on applicable university property and represent a serious or continuing threat to the campus community. Consistent with these acts, the university does not include any names or other personally-identifiable information of complainants, when issuing timely warnings.

Certain employees, known as Campus Security Authorities (CSAs), have a legal obligation to file a report with the ISU Police Department concerning known or suspected criminal activity. Additional information about CSAs and the filing of Clery reports may be found at the [ISU Police Department's Clery webpage](#).

#### 4. Supportive Measures

ISU offers individualized supportive measures, as appropriate and reasonably available, without fee or charge to complainants, respondents, and witnesses. These supportive measures are available before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive measures are designed to restore or preserve equity of access to the university's education programs and activities, without *unreasonably* burdening any party, and may include measures designed to deter Prohibited Title IX Sexual Harassment and protect the safety of all parties and the campus community. Supportive measures are non-disciplinary and non-punitive in nature.

Upon receipt of a report or notice of [Prohibited Title IX Sexual Harassment](#), the university will discuss reasonable and appropriate supportive measures designed to preserve the parties' 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 deter retaliation. Questions and requests concerning such measures should be directed to the [Title IX Coordinator](#).

Supportive measures may include, but are not limited to:

- i. Information about and access to counseling, mental health, and medical resources;
- ii. Extension of deadlines or other course-related adjustments;
- iii. Modifications of work or class schedules;
- iv. Campus escort services;
- v. Mutual restricted contact notices designed to restrict contact and communication between individuals;
- vi. Assistance in requesting no contact orders or protective orders under Iowa law;
- vii. Changes in work or housing or dining locations;
- viii. Leaves of absence;
- ix. Increased security or monitoring of certain areas of campus;

- x. Referral to resources which can assist with financial aid, visa, and immigration concerns;
- xi. Safety planning;
- xii. Assistance in obtaining a sexual assault forensic exam;
- xiii. Assistance in contacting and filing a report with local law enforcement.

Determinations and Implementation: The provision of supportive measures will be determined based upon the totality of the circumstances involved in the specific matter. The university will consider a number of factors in determining which measures are reasonable and appropriate, including the needs and requests of the individual seeking such measures; the severity and pervasiveness of the reported conduct; whether the complainant and the respondent share the same residence hall, academic courses, or job/activity locations; and whether judicial measures have been taken to protect the parties (e.g., legal protective orders).

The Title IX Coordinator is responsible for assessing and implementing supportive measures with the assistance of other university offices as needed. If an individual requests supportive measures, the university can generally keep that individual's identity private, unless disclosing the party's identity is necessary to provide supportive measures, e.g., a restricted contact notice where the parties would need to have this information in order to comply.

Individuals with disabilities: The university will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent reasonably necessary and available, to participate in and benefit from the university's processes, including any investigation or hearing under this Policy. Student requests for disability related accommodations must be made to Student Accessibility Services, 1076 Student Services Building, 515-294-7220, [accessibility@iastate.edu](mailto:accessibility@iastate.edu). Employee requests for disability related accommodation must be made to University Human Resources, 3810 Beardshear Hall, 515-294-4800, [uhrdar@iastate.edu](mailto:uhrdar@iastate.edu). Individuals may also request assistance in writing from the Title IX Coordinator in connecting with these offices or in facilitating approved accommodations.

## **5. Emergency Removal (Interim Suspension, Interim Action, Administrative Leave)**

**A. Interim Suspension:** The university may immediately remove student-Respondents from the university's education programs and activities on an emergency basis, following an individualized safety and risk analysis that determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of [Prohibited Title IX Sexual Harassment](#) justifies such removal.

- i. Emergency removal is for the purpose of addressing imminent threats posed to any person's physical health or safety, which arises out of the Prohibited Title IX



Sexual Harassment allegations. Generalized or speculative belief that a Respondent may pose some risk to someone's physical health or safety is not sufficient.

- ii. The university will provide a Respondent with written notice stating the reasons for the emergency removal and the time and place of the emergency removal hearing to be held within two business days of the notice.

**B. Administrative Leave:** The university may place non-student employee Respondents on administrative leave during the pendency of any investigation and hearing under this Policy. This administrative leave may be with or without pay depending upon the totality of the circumstances.

- i. With respect to faculty-employee Respondents see also FH Section 7.2.5.1.4 ("Interim Action").
- ii. Student-employees may also be placed on administrative leave from their student-employment positions. Because administrative leave may impact a student-employee's access to the university's educational benefits and opportunities in a way that a non-student employee's access to the university's educational benefits is not jeopardized, the university will take this fact into consideration before placing student-employees on administrative leave. A student-employee that is subject to interim suspension (see 5A above) will also be placed on administrative leave from any university employment position.

## **6. Summary of Rights of Complainants and Respondents in Investigations and Hearings under this Policy**

Complainants and respondents both have rights during the investigation and hearing process of complaints of [Prohibited Title IX Sexual Harassment](#) under this Policy. 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 proper notice of any investigation, hearing, decision, sanction, and/or appeal.
- ix. To receive a fair, reliable, and impartial investigation and appropriate resolution process of all reports of Prohibited Title IX Sexual Harassment.
- x. To have reports of Prohibited Title IX Sexual Harassment 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, including the equal opportunity to identify witnesses, provide evidence, review and comment on the draft investigative report, participate in any hearing, provide an impact statement, and appeal final determinations and sanctions.
- xiii. To be protected from retaliation.
- xiv. To discuss experiences, including any concerns regarding the university's process with the Title IX Coordinator, any other appropriate university official, or someone external to the university.

## **7. Investigation Procedures for Reports of Prohibited Title IX Sexual Harassment**

ISU is committed to providing a prompt, fair, and impartial response to reports of [Prohibited Title IX Sexual Harassment](#). The university's process for responding to reports of Prohibited Title IX Sexual Harassment is grounded in fairness, equity, and support for all parties; includes procedural protections that ensure notice and meaningful opportunities to participate; and recognizes the unique dynamics involved in reports of Prohibited Title IX Sexual Harassment.

Throughout the process, the parties will have equal opportunities to participate in the investigation, be accompanied by an adviser/support person, identify witnesses, provide

information and evidence, review a draft of the investigative report and provide comments, participate in any necessary hearing, provide an impact statement, and appeal final determinations and sanctions, if applicable.

In all cases, the university will take prompt steps to investigate reports and stop, prevent, and remedy the impact of any Prohibited Title IX Sexual Harassment. The university cannot guarantee a definite timeframe for this process, but in all matters the university will make a good-faith effort to complete a fair, impartial investigation in a timely manner based on the totality of the circumstances present. Factors that could impede the timing of the process include the complexity and severity of the matter, the number and availability of parties and witnesses, concurrent law enforcement activity, or the need to identify and acquire physical or other evidence.

**A. Formal Complaint Initiation:** A university Formal Complaint of Prohibited Title IX Sexual Harassment may be initiated in one of the following two ways:

- i. A [Complainant](#) may file a document with the university's Title IX Coordinator which includes allegations of Prohibited Title IX Sexual Harassment against a named [Respondent](#) (if known) and requesting that the university investigate the allegations. No specific form is required. A complainant may file a Formal Complaint by physically or digitally signing a document and filing it with the Title IX Coordinator via [email](#) or in person at the Office of Equal Opportunity, 3410 Beardshear Hall, Ames, IA 50011. In order to proceed under this Policy, the Formal Complaint must contain allegations of Prohibited Title IX Sexual Harassment against a respondent and request a university investigation. A complainant may also choose to meet in person with the Title IX Coordinator, or other designated staff member in the Office of Equal Opportunity, to report Prohibited Title IX Sexual Harassment. In such a situation, the Title IX Coordinator will ask the complainant to file a signed document initiating a Formal Complaint.
- ii. The Title IX Coordinator may determine, based on the totality of the information, that it is necessary and appropriate for the Title IX Coordinator to initiate and sign a Formal Complaint and investigate alleged Prohibited Title IX Sexual Harassment. Generally, the Title IX Coordinator will initiate and sign a Formal Complaint only after contacting the individual alleged to have been victimized by Prohibited Title IX Sexual Harassment to discuss availability of supportive measures, consider the individual's wishes with respect to supportive measures, and explain to the individual the process for filing a Formal Complaint.

If there are multiple complainants and one respondent, then the university may consolidate complaints where the allegations of Prohibited Title IX Sexual Harassment arise out of the same facts or circumstances. This means that the

multiple complainants' allegations are intertwined in a way that their allegations directly relate to all the parties.

**B. Complaint Assessment:** When the university receives a Formal Complaint that involves potential Prohibited Title IX Sexual Harassment, the Title IX Coordinator (or designee in all instances) will request an initial assessment meeting with the complainant / the person reportedly harmed in order to gain a basic understanding of the nature and circumstances of the allegations. At this meeting, the complainant will be provided with information regarding university policies, information about the process for filing a Formal Complaint and the investigation and hearing process, and information about available supportive measures. If the complainant declines to participate in this initial assessment meeting, the Title IX Coordinator will assess the Formal Complaint along with all available information.

- i. The Title IX Coordinator reviews the Formal Complaint, considering all available information, and determines whether the Formal Complaint falls within the scope of this Policy and whether the information provided, if true, rises to the level of a plausible violation of this Policy.
  - If the conduct alleged in the Formal Complaint would not constitute Prohibited Title IX [Sexual Harassment](#) as defined in this Policy even if proved, then the Formal Complaint will not proceed under this Policy.
  - If the conduct alleged in the Formal Complaint did not occur in the university's education programs or activities even if proved, then the Formal Complaint will be not proceed under this Policy.
  - If the conduct alleged in the Formal Complaint did not occur against a person in the United States, then the Formal Complaint will not proceed under this Policy.
  - The Title IX Coordinator may determine that a Formal Complaint will not proceed under this Policy for other reasonable reasons, including if the complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the complaint; if the respondent is no longer enrolled or employed at the university; or if circumstances prevent the university from collecting evidence sufficient to reach a determination.
  - A decision that a Formal Complaint will not proceed under this Policy does **not** preclude appropriate action under another university policy or code of conduct that may apply to the conduct alleged. The Title IX Coordinator

will determine if another university policy or code of conduct potentially applies and initiate that policy's processes and procedures, and notify the parties involved of the applicable policy and procedures.

- ii. If the Title IX Coordinator, in consultation with other relevant offices (e.g., University Human Resources, Office of the Provost, Office of the Dean of Students), determines that a Formal Complaint will not proceed under this Policy for the reasons indicated directly above *and* that no other university policy or code of conduct potentially applies, then the university's investigation process will not proceed at that time. The Title IX Coordinator will notify the person reportedly harmed in writing of the decision not to proceed (as well as the respondent if notice has been provided) and provide the reason(s) why. The Title IX Coordinator will explain that if additional information/evidence becomes available, an investigation may then proceed. Appropriate and reasonable supportive measures will be provided regardless of whether an investigation proceeds.
- iii. If the person reportedly harmed by the Prohibited Title IX Sexual Harassment requests that the university not initiate a Title IX Sexual Harassment investigation, the university will take all reasonable steps to respond consistent with that request. However, the Title IX Coordinator must weigh such requests against the university's obligation to provide a safe and non-discriminatory environment for all community members. If the Title IX Coordinator determines that it must investigate despite such a request to the contrary, the Title IX Coordinator will inform the person reportedly harmed prior to contacting the accused and will implement reasonable supportive measures. When a Formal Complaint is initiated against a respondent, whether by a complainant or the Title IX Coordinator, the identity of the person reportedly harmed must be disclosed to the respondent by the university, if known. The Title IX Coordinator, in consultation with other relevant offices (e.g., University Human Resources, Office of the Provost, Office of the Dean of Students) may also determine that an investigation should proceed under a different applicable university policy.

**C. Supportive Measures:** Supportive measures are individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant, the respondent, and/or witnesses before or after the filing of a Formal Complaint, or where no Formal Complaint has been filed. (See [Section 4](#) "Supportive Measures" for more information).

**D. Informal Resolution Option:** The university may facilitate an informal resolution process that does not involve an investigation or hearing in appropriate circumstances. After a

Formal Complaint is filed, then the university may assess the matter and determine whether informal resolution is appropriate. The Title IX Coordinator will determine whether an informal resolution process is appropriate considering the totality of the circumstances. Informal resolution may be pursued at any time before a determination has been rendered by the appropriate decision maker. If an informal resolution is appropriate, the Title IX Coordinator may contact all the involved parties (complainant and respondent) and gain their voluntary written consent to attempt informal resolution. Complaints involving reports of [sexual assault](#) are not ordinarily appropriate for informal resolution absent extenuating circumstances. Complaints of Prohibited Title IX Sexual Harassment allegedly perpetrated by an employee of the university against a student are *never* appropriate for informal resolution.

- i. In all informal resolution matters, the university will provide the parties with written notice disclosing: the allegations, the requirements of the informal resolution process, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- ii. The parties will be informed that they have the option to discontinue the informal process and request a formal investigation/adjudication at any time prior to the completion of a final signed informal resolution agreement. The university also has the discretion to discontinue the informal process at any time prior to the completion of a final signed informal resolution agreement. If all parties accept the terms of the informal resolution process and complete a signed Informal Resolution Agreement, the complaint is considered fully resolved and closed, absent the discovery of significant and previously unknown information or the failure to adhere to the terms of the signed Informal Resolution Agreement.
- iii. Informal resolution may encompass a broad range of conflict resolution strategies. A strict definition of informal resolution is not utilized so as to avoid limiting parties' freedom to explore a resolution option that is best for all parties involved, including the university. Informal resolution outcomes include, but are not limited to: referral of one or all parties to appropriate counseling programs; referral of one or all parties to appropriate and targeted Prohibited Title IX Sexual Harassment training; required reading or exchange of impact/responsibility statements; mediation; entering into restricted contact agreements; discipline up to and including suspension or dismissal; and/or any other agreed upon measure that is reasonable and appropriate considering the totality of the known circumstances.

- iv. Appropriate and reasonable [supportive measures](#) may be implemented at any time during and following an informal resolution process.

**E. Respondent’s Acknowledgment of Responsibility:** A Respondent may elect to acknowledge and take responsibility for reported Prohibited Title IX Sexual Harassment. In such a situation, the matter may be resolved under the Informal Resolution option, if all parties agree. The Title IX Coordinator may propose appropriate resolution options in such matters. If the university, Respondent and the Complainant agree, the matter will be considered resolved. If an Informal Resolution of the matter cannot be identified and agreed upon by all parties, then the investigation/hearing will proceed.

**F. Investigation:** In appropriate cases, the university will initiate a prompt, thorough, fair, and impartial investigation and adjudication of Formal Complaints of Prohibited Title IX Sexual Harassment.

- i. If an investigation is initiated, the Title IX Coordinator will assign the investigation to an appropriate administrator(s) and/or an experienced external resource (an “investigator”) who has received appropriate training on this Policy, the definition of Prohibited Title IX Sexual Harassment, the scope of the university’s education programs and activities, how to conduct an investigation, how to serve impartially, issues of relevance, and how to create an investigative report that fairly summarizes the relevant evidence.
- ii. All parties may request that the assigned investigator be recused because of a conflict of interest or bias. This request must be made in writing to the Title IX Coordinator within five (5) calendar days of notice of the formal investigation and the identity of the investigator. The Title IX Coordinator will determine if such a conflict is present by examining the particular facts of the situation and objectively determining whether a reasonable person would believe a conflict is present.
- iii. The university strives to complete investigations in a timely and prompt manner. Parties will be kept reasonably updated as to the progress of the investigation process.

**G. Notice of Investigation:** Upon the initiation of an investigation pursuant to a [Formal Complaint](#) under this Policy, the Title IX Coordinator will notify the Complainant and the Respondent, in writing, of the following information, if known:

- i. the names of the complainant and the respondent;
- ii. the approximate date, time, and location of the reported conduct;

- iii. the nature of the reported conduct/allegations;
- iv. the applicable potential Prohibited Title IX Sexual Harassment alleged;
- v. the name of the investigator;
- vi. information about the parties' rights and responsibilities, including the right to have an adviser and the right to review evidence at the appropriate stages;
- vii. the presumption that respondents are not responsible for the alleged conduct and that responsibility determinations are made only at the conclusion of the resolution process;
- viii. the university's prohibition against knowingly making false statements and submitting false information during the resolution process;
- ix. the university's prohibition against retaliation;
- x. a copy or link to ISU's resource guide; and
- xi. a copy or link to this Policy.

The university may interview an employee-respondent about Prohibit Sexual Harassment without first disclosing the Complainant's identity, but the university will not take disciplinary action against the employee-respondent without applying an appropriate resolution process. Administrative leave is not considered disciplinary action.

The university will provide to everyone whose participation is invited or expected, written notice of the date, time, location, names of participants, and purpose of all meetings, investigative interviews, and all hearings, with sufficient time for the party to prepare to participate.

If, in the course of the investigation the scope broadens or additional allegations are made, the Title IX Coordinator will issue a supplemental notice to the Parties.

**NOTE:** All notices, meeting requests, updates, and other communications relating to the university's process will be provided electronically through ISU email accounts, as described in the university's [Email, University Communications](#) policy. It is expected that email will be received and read by the recipient within a reasonable amount of time, as email communications may be time-sensitive.

**H. Participation in the Process:** Complainants and Respondents have the right to participate, and the right to decline to participate, in the university's investigation and adjudication process. Regardless, a Complainant's Formal Complaint may be investigated and adjudicated, even if they decline to participate, and a Respondent may be held



responsible for violations and sanctioned, even if they decline to participate. The university will not draw any adverse inference from a Complainant's or a Respondent's decision not to participate, however, declining to participate may impact the timing and outcome of a matter, and the university will render a decision based on the totality of the relevant information available. Participation throughout the process, including at any hearing is important. As detailed below (8.E.ii), if a party or witness does not submit to questioning from another party's adviser at the live hearing, this may impact the consideration of and/or weight assigned to any statement (verbal and written) made by that party or witness in reaching a determination regarding responsibility.

Parties may be required to meet with appropriate university officials to receive notice of allegations and receive information about this Policy, applicable supportive or interim measures, the resolution process, and university's anti-retaliation policy. At such meetings, parties may elect to remain silent.

The university recognizes that witnesses may be reluctant to participate in the process. Witnesses should know that the university is committed to providing everyone involved in the resolution process with needed support and protecting everyone involved from retaliation.

Any person who knowingly and intentionally interferes with an investigation or adjudication under this Policy is subject to disciplinary action. Interference with an investigation/adjudication may include, but is not limited to: attempting to coerce, compel, or prevent an individual from providing testimony; removing, destroying, or altering documentation relevant to the investigation; and/or knowingly providing false or misleading information to an investigator, or encouraging others to do so.

- I. **Advisers:** All parties to an investigation, including the Complainant, the Respondent, and any witnesses are entitled to be accompanied and assisted by an adviser of their own choosing and at their own expense at all related meetings, including formal and informal meetings, investigation interviews, and any necessary hearings. A chosen adviser can be a friend, parent, attorney, support person, or other appropriate person. An adviser may be disallowed if they are identified as a witness related to the matter or another conflict of interest is present.
  - i. During all such related meetings advisers are not permitted to speak for the party. Parties may confer with their adviser during such meetings but such meetings may not be unreasonably delayed or impeded.
  - ii. Rules of Decorum: During all meetings, interviews and hearings, all individuals, including advisers, are required to comply with rules of decorum. These rules include respectfully participating in the process without unreasonably interfering,

delaying, or disrupting the meeting. An adviser who fails to comply with these rules may be disallowed by the university.

**J. The Investigation:** The investigation may include, but is not limited to, interviews with the Complainant, the Respondent, and witnesses identified as having information related to the report made; the examination of written statements by the parties; and the examination of all other related documents and evidence. The investigator will undertake reasonable effort to gather evidence and conduct a thorough investigation.

- i. The investigator will interview the Complainant and Respondent separately. Each party will be asked to participate in an initial interview and may be asked to participate in follow up interview(s) as needed.
- ii. The investigator will make a good faith effort to contact and interview any witness identified by the parties, in the documentation, or by the investigator, including those no longer at the university. Parties have an equal opportunity to identify witnesses, including fact and expert witnesses. However, the university does not have the power to subpoena or compel witness participation. Generally, a witness is an individual who observed some or all the alleged acts in question or is an individual with other information related to the incident. The investigator will inform each witness that they are prohibited from retaliating against the Complainant, the Respondent or other witnesses, and request that the witness respect the privacy of the parties and the integrity of the process.
- iii. All parties to an investigation, including the Complainant, the Respondent, and witnesses may identify and provide evidence to the investigator (inculpatory or exculpatory) that they believe is related to the matter. Related evidence and information may include but is not limited to text messages, email exchanges, timelines, receipts, photographs, physical evidence, police records, etc. The investigator may also consider any additional related evidence they collect from other sources. The investigator will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional in connection with the provision of treatment to a party, unless that party provides voluntary, written consent. The investigator will not access, consider, disclose or otherwise use a party's records or statements that are considered privileged under the law, unless that party provides voluntary, written consent.
- iv. The decision to interview a witness or collect evidence may be informed by an investigator's [relevancy](#) assessment.

- v. Parties are *not* permitted the right to depose parties or witnesses, nor to invoke a court system's subpoena power to compel parties or witnesses to appear at interviews or hearings.

**K. Preliminary Investigative Report and Review of Evidence:** At the conclusion of the investigation, the investigator will prepare a written Preliminary Investigative Report that contains a summary-description of the procedural steps of the matter from the receipt of the Formal Complaint through the investigation, and fairly summarizes the relevant witness statements, documentary information, and evidence. The Preliminary Investigative Report will not contain any findings or recommendations concerning responsibility for the Prohibited Title IX Sexual Harassment alleged. The investigator will also compile all the evidence that is directly related to the allegations raised in the Formal Complaint, including inculpatory and exculpatory evidence whether obtained from a party or other source.

- i. The Preliminary Investigative Report and all evidence obtained as part of the investigation that is directly related to the allegations will be provided to (either electronically or in hard copy) the Complainant, the Respondent, and the parties' respective advisers to allow for an equal opportunity to inspect and review the report and evidence.
- ii. Following delivery of the report and evidence, the Complainant and the Respondent will have five (5) calendar days to submit a written response to the investigator. The written response may offer corrections, provide context, clarify information, challenge assertions, suggest additional witnesses, identify relevant evidence that seems to be missing, and/or note any other relevant information to assure the thoroughness and sufficiency of the investigation.
- iii. The Preliminary Investigative Report and the evidence provided is considered confidential. Accordingly, the Complainant, the Respondent, and advisers are expected to maintain its confidentiality and may not disseminate the report or any of the evidence subject to inspection and review, except as necessary for the purpose of receiving counsel or advice. Inappropriate dissemination is subject to discipline.
- iv. Once all parties have submitted their written responses, or the five (5) calendar days have elapsed, the investigator will review and consider the written responses. In order to complete a fair and thorough investigation, the investigator may conduct additional investigation. The investigator will then incorporate any necessary revisions or new information and evidence into a Final Investigative

Report, and include the parties' written responses into the investigation file for decision maker consideration.

- L. Final Investigative Report:** The Final Investigative Report and all directly related evidence will be delivered to the parties, the parties' respective advisers, the Title IX Coordinator, and the relevant hearing administrator(s). The Final Investigative Report will fairly summarize the relevant witness statements, documentary information and evidence. The Final Investigative Report may include credibility analysis, but not credibility determinations. The Final Investigative Report will not contain any findings or recommendations concerning responsibility or non-responsibility for the Prohibited Title IX Sexual Harassment alleged.
- i. Following delivery of the final report, the Complainant and the Respondent will have five (5) calendar days to submit a written response to the Title IX Coordinator. If a party disagrees with the investigator's determination about relevance, the party can make that argument in their written response and to the decision-maker at any [hearing](#) under this Policy.
  - ii. After receiving the final report, the Title IX Coordinator or appropriate hearing administrator, will contact the Complainant and the Respondent to meet individually, to review the final report, explain available [informal resolution](#) options, explain the formal resolution and hearing process, and to address any questions.
  - iii. If all parties freely and voluntarily desire to explore an informal resolution to the matter, the Title IX Coordinator or appropriate hearing administrator may work with the parties in identifying such a resolution.
  - iv. If informal resolution cannot be reached or is otherwise inappropriate, the hearing administrator will convene an appropriate hearing board to analyze the matter and determine responsibility or non-responsibility for the conduct alleged in the Formal Complaint.

## 8. Hearing Procedures for Reports of Prohibited Title IX Sexual Harassment

- A. Live Hearing:** A live hearing process will be used to determine responsibility/non-responsibility for alleged violations of this Policy. Live hearings may be conducted with all the parties physically present in the same location or, at the university's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

**B. Notice of Live Hearing:** The conduct administrator will provide written notice of a live hearing to both Complainant and Respondent. The notice of hearing will be sent to the parties at least ten (10) calendar days before the scheduled hearing. The notice of hearing will include the following information, if available:

- i. The date, time, and location of the live hearing;
- ii. The name(s) of the decision-maker(s);
- iii. The policy(ies) reportedly violated and potential sanction range;
- iv. A copy or link to the policy describing the applicable hearing process;
- v. A description of any supportive or interim measures that are in effect pending the hearing and a reminder of the university's anti-retaliation policy;
- vi. Information concerning the parties' right to be accompanied by an adviser;
- vii. Reminder that if a party or witness does not submit to questioning from another party's adviser at the live hearing, this may impact the consideration of and/or weight assigned to any statement made by that party or witness in reaching a determination regarding responsibility.

**C. Decision-Maker:** The live hearing will be presided over by a decision-maker(s) of the university's choosing, as detailed below. The Decision-maker will not be the same person as the Title IX Coordinator or the investigator. All parties may request that a decision-maker be excused because of a conflict of interest or bias. This request must be made in writing to the hearing administrator within three (3) calendar days of the notice of the hearing which includes the name(s) of the decision-maker. The Title IX Coordinator will determine if such a conflict is present by examining the particular facts of the situation and objectively determining whether a reasonable person would believe a conflict is present.

- i. The role of the decision-maker is not to re-investigate the matter, but to review, assess, and weigh the totality of all relevant evidence; objectively evaluate that evidence; and independently reach a determination regarding responsibility. Determinations of responsibility are based upon the [preponderance of the evidence](#).
- ii. In addition, the decision-maker or the hearing administrator is responsible for maintaining the decorum of the hearing. The decision-maker or the hearing administrator is also responsible for determining whether questions posed by a

party's adviser to the other party or to witnesses are [relevant](#) and therefore permissible or impermissible. At the university's discretion, the decision-maker may also serve as the hearing administrator or the university may choose to divide these roles within any particular hearing.

- iii. *Student Title IX Decision Maker*: In Formal Complaints where the Respondent is an ISU student and the potential sanction may impact the Respondent's status as a student, a Title IX Student Conduct Hearing Board ("SCHB") will serve as the decision-maker and determine if the Respondent violated this Policy and, if yes, to recommend an appropriate sanction. The SCHB for a specific matter is comprised of at least three members and must include: one faculty member, one staff member, and one student (undergraduate or graduate). The faculty or staff member will serve as the SCHB Chairperson.
- iv. *Staff Title IX Decision-Maker*: In Formal Complaints where the Respondent is an ISU merit staff member or an ISU Professional & Scientific (P&S) staff member and the potential sanction may impact the Respondent's status as an employee, the University Human Resources Assistant Director of Employee and Labor Relations, or appropriate designee, will serve as the decision-maker and determine if the Respondent violated this Policy and, if yes, to recommend an appropriate sanction.
- v. *Faculty Title IX Decision-Maker*: In Formal Complaints where the Respondent is an ISU faculty member and the potential sanction may impact the Respondent's status as a faculty member, a Title IX Faculty Review Board ("FRB") will serve as the decision-maker and determine if the Respondent violated this Policy and, if yes, to recommend an appropriate sanction. The FRB for a specific matter is comprised of three members nominated from the faculty pool by the president of the Faculty Senate and confirmed by the senior vice president and provost. (See generally, ISU Faculty Handbook, §7.2.5.2.1, "Faculty Review Board").

**D. Hearing Procedure and Questioning ("Cross Examination"):** The structure of the hearing will generally proceed as follows:

- i. *Introduction*: Conduct administrator outlines hearing process and initiates hearing.
- ii. *Opening Statements*: The decision-maker may allow participating parties to make an opening statement to the decision-maker directly. Participating parties may decline this opportunity. A party's adviser may not make such a statement on behalf of a party, unless as an approved reasonable accommodation.

- iii. *Investigator Presents:* The investigator, or appropriate designee, will be present and will provide an overview of the investigation and Final Investigative Report. The decision-maker(s) may ask all relevant questions to the investigator and each party's adviser may ask all relevant questions to the investigator.
- iv. *Questioning (Cross-Examination) Phase:* The decision-maker will allow and facilitate a process in which the decision maker and then each party's adviser may ask the other party and any witnesses, including the investigator, all relevant questions and relevant follow-up questions, including those relevant questions challenging credibility. The parties themselves are not allowed to ask the other party or any witness questions. If a party does not have an adviser present at the hearing, the university will provide that party with a questioner of the university's choice to read that party's questions. A questioner's role is strictly limited to reading a party's questions for purpose of party and witness questioning.
- Order of Presentation: Present and participating respondents may make a statement and submit to questioning from decision maker followed by adviser of other party. Present and participating complainants may make a statement and submit to questioning from decision maker followed by adviser of other party. Present and participating witnesses submit to questioning from decision maker followed by advisers of the parties.
  - Only [relevant](#) questions may be asked. Advisers will initially pose their question to the hearing administrator or decision maker for a relevancy determination. The hearing administrator / decision maker will determine if the question is relevant or not relevant and explain their determination (The hearing administrator / decision-maker will be trained on issues of relevance). If the question is deemed relevant, the question will be repeated to the party/witness for answer.
  - As detailed more fully below (8.E.ii), if a party or witness does not submit to questioning from another party's adviser at the live hearing, this may impact the consideration of and/or weight assigned to any statement made by that party or witness in reaching a determination regarding responsibility.
- v. *Closing Statements:* The decision-maker may allow participating parties to make a closing statement to the decision-maker directly. Participating parties may decline this opportunity. A party's adviser may not make such a statement on behalf of a party, unless as an approved reasonable accommodation.

- vi. *Adjournment*: Following any closing statements the hearing will be adjourned.
- vii. *No New Evidence*: When the hearing convenes, no new evidence will be considered by the decision-maker unless the party offering the new evidence can show that it was: (i) not reasonably available during the investigation phase of the process; and (ii) is relevant to establishing whether or not the Respondent is responsible/not responsible for the policy violation. If the introduction of new evidence is allowed, the other party, if present, will have the opportunity to review and respond.
- viii. *Transcript*: An audio or audiovisual recording, or transcript, of the hearing will be made by the university and the parties may request to review the recording.

**E. Participation in the Hearing:** The hearing is closed to the general public. The Complainant and Respondent are permitted and encouraged to attend and participate in the hearing, but are not required to participate. All relevant witnesses are permitted and encouraged to attend and participate in the hearing, but are not required to participate. Neither the university nor the parties to a process under this Policy may invoke a court system's subpoena power to compel parties or witnesses to appear. The parties and witnesses need not be present in the same room together. At the university's discretion, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other.

- i. A hearing may proceed without the participation/presence of either or all parties. The matter may be resolved in absentia in such matters. The hearing administrator will provide sufficient notice of the hearing to all parties (at least ten (10) calendar days) and may, in their discretion, reschedule hearings for extenuating circumstances.
- ii. If a party or witness does not attend the hearing and submit to questioning from another party's adviser at the live hearing pursuant to 8(D) above, this may impact the consideration of and/or weight assigned to any statement (verbal and written) made by that party or witness in reaching a determination regarding responsibility.

The Decision-maker has the discretion to consider and assign weight to any statement of a party or witness in reaching a determination regarding responsibility. For example, the Decision-maker, considering the totality of the circumstances, has the discretion to consider and assign weight to statements made by parties and witnesses: during the investigation phase; that are documented in emails or text exchanges between the parties or witnesses; and



statements about the alleged Prohibited Conduct that are otherwise determined to be Relevant, even if the party or witness does not submit to questioning at the live hearing.

The Decision-maker, considering the totality of the circumstances, also has the discretion to consider and assign weight to statements appearing in: police reports; Sexual Assault Nurse Examiner (SANE) documents; medical reports; and other documents, even if those documents contain statements of a party or witness who does not submit to questioning at the live hearing.

In determining whether to consider and what weight to give such statements, the Decision-maker should assess: (i) the opportunity of the parties to ask questions or challenge the statement(s) throughout the totality of the investigation and hearing phases, including during the interview with investigators phase, during the preliminary investigative report and evidence review phase, during the final investigative report response phase, and during the entirety of the hearing phase; (ii) whether or not the statement is documented in a contemporaneously produced record or report; (iii) whether the opportunity to question or challenge the statement(s) during the live hearing is necessary in order to provide a fundamentally fair and equitable process to all parties; (iv) the general requirement that at the live hearing, each party's advisor is to be permitted to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility; and (v) all other relevant factors.

The Decision-maker cannot draw an inference about the determination regarding responsibility based on a party's or witness's absence from the hearing or refusal to submit to questioning during the hearing.

- iii. The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to submit to questioning during the hearing.

**F. Relevancy and Appropriate Lines of Questioning:** As discussed in 8(D) & (E) above, the parties' respective advisers may pose questions to the investigator, the other party, and/or any witnesses who submit to such questioning. **ALL** questioning will be by and through advisers or if a party does not have an adviser present, an ISU appointed questioner. The adviser will first read the question to the decision-maker/hearing administrator, who will determine if the question is relevant or not relevant. If the question is determined to be not relevant, the decision-maker/hearing administrator will provide an explanation for their determination and the question may not be asked to the

party/witness. If the question is determined to be relevant, the decision-maker/hearing administrator will state as such and the adviser will repeat the question for the party/witness and the party/witness may respond. In determining whether a posed question is relevant or not relevant the following factors are considered:

- i. A reasonable person standard of relevancy is applied. A reasonable person's determination that a question is relevant or not relevant is made by applying logic and common sense, and not against a backdrop of legal expertise.
- ii. Is the question relevant to establishing whether or not the Respondent is responsible or not responsible for the alleged Policy violation?
- iii. Is the question probative of any material fact concerning the allegations?
- iv. Duplicative evidence, including duplicative questions may be deemed not relevant.
- v. Information protected by a legally recognized privilege and any party's medical or psychological records (unless the party has given voluntary, written consent) are not relevant.
- vi. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the Respondent and are offered to prove [consent](#).

**G. Deliberation and Determination of Responsibility:** At the conclusion of the hearing, the decision-maker will deliberate in private and make a determination of responsibility or non-responsibility, by majority vote (if applicable), based on the preponderance of the relevant evidence. If there are multiple decision-makers, no member may abstain.

- i. During deliberations, the decision-maker may review and inspect the totality of the information and evidence presented, and base their decision on an objective evaluation of all relevant evidence and information. The decision-maker will evaluate the relevant evidence for weight and credibility.
- ii. Following deliberations, the decision-maker will prepare a written determination of responsibility. The written determination of responsibility will be delivered to the Title IX Coordinator and the hearing administrator within seven (7) calendar

days of the conclusion of the hearing. The written determination will contain the following content:

- Identification of the allegations potentially constituting [Prohibited Title IX Sexual Harassment](#);
- A summary-description of the procedural steps of the matter from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Policy to the facts of the matter;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- A description of any recommended disciplinary sanction(s) imposed upon the Respondent, if applicable;
- Whether any additional remedies or [supportive measures](#) designed to restore or preserve equal access to the university's programs or activities will be provided to the Complainant (details provided only to the Complainant);
- The university's procedures and permissible bases for the Complainant and/or the Respondent to appeal the determination.

**H. Disciplinary Sanctions:** If the decision-maker determines that the Respondent is responsible for one or more policy violations, it will recommend an appropriate sanction(s). Sanctions may include any of the sanctions identified in the Policy or the applicable code of conduct / handbook. In determining the appropriate sanctions to recommend, the decision-maker may review and consider any impact statements submitted by the parties.

- i. Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct and any record of prior discipline for violations of this Policy or other similar violations. The imposed sanction(s) should be designed to eliminate Prohibited Title IX Sexual Harassment, prevent its recurrence, and remedy its effects, while affirming the university's core values and principles.

- ii. The decision-maker will forward its recommendations regarding sanctions to the hearing administrator and Title IX Coordinator. The Title IX Coordinator and the appropriate senior administrator will review the recommended sanctions and either accept the sanctions as recommended or make any changes deemed necessary to ensure the sanctions are consistent with those issued in substantially similar cases and are reasonably designed to eliminate the conduct, prevent its recurrence, and remedy its effects.
    - The appropriate senior administrator in matters where the respondent is a student is the associate vice president of student affairs / dean of students.
    - The appropriate senior administrator in matters where the respondent is a staff member (merit and P&S) is the relevant senior vice president.
    - The appropriate senior administrator where the respondent is a faculty member is the senior vice president and provost.
  - iii. Generally, the effective date of final disciplinary sanctions will be after the appeal date time-frame has elapsed or at the conclusion of the appeal process, if initiated. Supportive measures and other reasonable interim measures may be initiated pending the outcome of any appeal.
- I. **Final Outcome Letter:** As soon as practicable after receiving the decision-maker written decision, the senior administrator, or designee, will issue a written notification letter (the “Final Outcome Letter”) to the Complainant and the Respondent. The letter will include:
- i. A copy of the decision-maker written determination of responsibility;
  - ii. The final disciplinary sanctions imposed on the Respondent, if any;
  - iii. the individual services/resources available to the Complainant and Respondent (private with respect to each party);
  - iv. The university’s prohibition against retaliation against any party or any individual involved in the process; and
  - v. The university’s procedures and permissible bases for the Complainant and/or the Respondent to appeal the determination.

## 9. Appeal Procedures for Reports of Prohibited Title IX Sexual Harassment

In matters under this Policy, the Complainant and the Respondent have the equal right to appeal determinations of responsibility, the resulting sanctions, as well as the university's decision to dismiss a [Formal Complaint](#), based on limited grounds.

**A. Grounds for Appeal:** An appeal may be requested on the following limited grounds:

- i. Procedural irregularity that affected the outcome of the matter;
- ii. New evidence is presented that was not reasonably available at the time the determination regarding responsibility was made, that could reasonably affect the outcome of the matter;
- iii. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; or
- iv. The sanctions imposed are outside the university's sanction range for such violations and/or not justified in light of the totality of the circumstances.

**B. Request for Appeal:** Requests for appeal must be submitted in writing to the hearing administrator and senior administrator within seven (7) calendar days following delivery of the Final Outcome Letter. Upon written request, the senior administrator can grant additional time for submission of appeals. The written appeal must specifically identify the ground(s) for appeal, describe how the outcome of the matter was affected, and include any supporting material.

- i. Written requests for appeal submitted by one party will be shared with the other party. Each party may respond in writing to any appeal submitted by the other party. Written responses must be submitted within seven (7) calendar days following delivery of the request for appeal.
- ii. The university will attempt to render a decision on the appeal within thirty (30) calendar days following delivery of the initial request for appeal.

**C. Appeal Decision-Maker:** The decision-maker for an appeal will not be the decision-maker that reached the initial determination of responsibility, the investigator, the hearing administrator, or the Title IX Coordinator. The appeal decision-maker's responsibility is *not* to re-investigate or re-hear the matter, but is limited to assessing the specific ground(s) for appeal identified in the written appeal and any submitted responses to the written appeal. The decision-maker will issue a written decision describing the result of

the appeal and the rationale for the result and provide the written decision to the Title IX Coordinator, hearing administrator, and appropriate senior administrator. The senior administrator, or designee, will deliver the appeal decision simultaneously to the parties.

- i. *Student Appeal Decision Maker*: In Formal Complaints where the Respondent is an ISU student and the potential sanction may impact the Respondent's status as a student, appeals are heard by a separate three member student conduct appeal panel. Decisions of this panel are made by majority vote and members may not abstain. (See generally Student Code of Conduct, § 8, Appeals).
- ii. *Merit Staff Appeal Decision-Maker*: In Formal Complaints where the Respondent is an ISU merit staff member and the potential sanction may impact the Respondent's status as an employee, appeals are heard by the appropriate senior administrator, normally the senior vice president responsible for the unit/division. (See generally Merit Employee Grievances – Guidance and Procedures, Step 3: Appeal to SVP/President).
- iii. *P&S Staff Appeal Decision-Maker*: In Formal Complaints where the Respondent is an ISU P&S staff member and the potential sanction may impact the Respondent's status as an employee, the senior administrator will notify the vice president, human resources (VP-HR), who will convene an appeals committee to render a decision on the appeal. (See generally P&S Procedures for Appealing a Summary Dismissal Decision).
- iv. *Faculty Appeal Decision-Maker*: In Formal Complaints where the Respondent is an ISU faculty member and the potential sanction may impact the Respondent's status as a faculty member, appeals are heard by a separate three member Title IX appeal Faculty Review Board (FRB). (See generally, ISU Faculty Handbook, §7.2.5.2.1, "Faculty Review Board").

**D. Decision on Appeal:** The appeal decision process will generally proceed as follows:

- i. If the appeal is denied, the original decision / determination is considered the final decision of the university under this Policy.
- ii. If the appeal is granted:
  - *Due to procedural irregularity that affected the outcome of the matter:* the original decision-maker's determination will be overturned, and a newly convened hearing will re-hear the matter for determination of responsibility, and if necessary, sanctioning.

- *Due to the presentation of new evidence that was not reasonably available at the time the determination regarding responsibility was made, that could reasonably affect the outcome of the matter:* the matter will be returned to the original decision-maker which will determine responsibility, and if necessary, sanctioning, in light of the new evidence.
  - *Due to the Title IX Coordinator, investigator, or decision-maker having a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter:* the appeal decision-maker will provide a statement regarding how the specific conflict of interest or bias found can be successfully remediated and an appropriate university administrator will coordinate with the appeal decision-maker to implement these remediation measures within a new process to determine responsibility.
  - *Due to the sanctions imposed being deemed outside the university's sanction range for such violations and/or not justified in light of the totality of the circumstances:* the appropriate senior administrator will modify the hearing sanction as deemed appropriate and reasonable.
- iii. The Complainant and the Respondent will be provided written notice of the appeal decision-maker's decision. If the appeal is denied, the written notice will state that it is the final institutional action on the matter under this Policy, and reference any applicable appeal procedures before the Board of Regents, State of Iowa (BOR) and shall state that such appeals are subject to deadlines. All interim measures in effect while the investigation/hearing were proceeding and/or any sanction imposed as a result of a hearing, may be imposed until the BOR appeal process is exhausted.

## **10. Recording Keeping Under this Policy**

The university will maintain for a period of seven (7) years a record of: each Sexual Harassment investigation including any determination regarding responsibility under this Policy; any actions, including supportive measures taken in response to a report or Formal Complaint of Sexual Harassment under this Policy; any audio or audiovisual recording or transcript of any hearing under this Policy; any disciplinary sanctions imposed on any respondent under this Policy; any remedies provided to the complainant under this Policy; any appeal and the result of the appeal under this Policy; any informal resolution and the result of the informal resolution under this Policy; and all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

## 11. Coordination with Other University Policies

This Policy addresses [Prohibited Title IX Sexual Harassment](#) as specifically defined in this Policy. Other forms of sex and/or gender discrimination (including Title VII sex discrimination), and discrimination and harassment based on race, ethnicity, pregnancy, color, religion, national origin, physical or mental disability, age, marital status, sexual orientation, gender identity, genetic information, status as a U.S. veteran (disabled, Vietnam, or other), or any other status protected by university policy or local, state, or federal law are governed by the university's [Discrimination and Harassment Policy](#).

In addition, the conduct of students, faculty, staff, and university affiliates are governed by the following related policies:

- [Student Code of Conduct](#)
  - Applies to all forms of student misconduct
  - Overseen by the Dean of Students Office and the Office of Student Conduct
- [Faculty Handbook](#)
  - Sets the standards of personal conduct for ISU faculty members
  - Overseen by the Office of the Senior Vice President and Provost
- [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
- Code of Business and Fiduciary Conduct
  - Sets forth the fundamental expectations of employees when carrying out their duties, including conducting responsibilities with fairness, integrity and respect, promoting and protecting the institution's best interests, and complying with applicable laws and policies.
- [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
- [Alcohol, Drugs, and Other Intoxicants](#)



- Clarifies the rules regarding possession, consumption, and distribution of intoxicants within university owned or operated buildings, property and grounds including administrative, instructional and research facilities.
- Overseen by the Senior Vice President for University Services
- [Alcohol Use – Students and Student Organizations](#)
  - States ISU’s commitment to maintaining an environment conducive to healthy lifestyles, including the academic and personal development of all members of the university community
  - Overseen by the Division of Student Affairs
- [Drug Free Workplace](#)
  - States ISU’s commitment to providing a drug free workplace and promoting a safe, healthy, and pleasant work environment
  - Overseen by 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
- [Jeanne Clery Act Reporting](#)
  - Explains ISU’s Clery Act annual reporting and timely warning notification process
  - Overseen by the ISU Police Department
- [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
- [Statement on Ethics - Professional & Scientific Staff](#)
  - Sets the standards of personal conduct for ISU professional and scientific employees
- Summary Dismissal – P&S
  - Explains the process that allows a supervisor to engage and implement involuntary termination proceedings when appropriate.
  - Overseen by University Human Resources

- Dispute Resolution – P&S
  - Details processes available to professional and scientific (P&S) employees involved in a dispute, including informal resolution and formal resolution.
  - Overseen by University Human Resources
- [Consenting Relationships](#)
  - States ISU’s policy concerning certain consensual relationships, explaining that consenting relationships between teachers and students, supervisors and employees, or colleagues when one is, or likely will be, involved in the evaluation of the other are inappropriate
  - Overseen by the Office of the Senior Vice President and Provost and University Human Resources
- [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