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## PART II. COMMUNITY POLICIES

### DIVISION I HUMAN RIGHTS, AFFIRMATIVE ACTION, AND EQUAL EMPLOYMENT OPPORTUNITY

(Written to conform to *Regents Procedural Guide* 3/74; amended 9/93; 10/95; 9/97)

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## CHAPTER 14: ANTI-HARASSMENT

(6/05; 12/05)

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### 14.1 RATIONALE.

The purpose of this policy is to prevent harassment within the University of Iowa community and to provide a process for addressing harassment if and when it does occur. The University of Iowa is committed to maintaining an environment that recognizes the inherent worth and dignity of every person, and that fosters tolerance, sensitivity, understanding, and mutual respect. This commitment requires that the highest value be placed on the use of reason and that harassment in the University community be renounced as repugnant and inimical to its goals. Harassment destroys the mutual trust which binds members of the community in their pursuit of truth.

The University also is committed strongly to academic freedom and free speech. An educational institution has a duty to provide a forum in which free speech and differences of opinion are actively encouraged and facilitated, and where opinions and deeply held beliefs are challenged and debated. Critical to this mission is providing a nondiscriminatory environment that is conducive to learning. Respect for these rights requires that members of the University community tolerate expressions of opinion that differ from their own or that they may find abhorrent.

This policy addresses harassment based on any classification covered by law and/or [II-3 Human Rights](#) (with the exception of sexual harassment, which is addressed in [II-4 Sexual Harassment](#)), as well as harassment based on other factors as set forth herein.

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### 14.2 POLICY.

Harassment of any member of the University community is prohibited.

- a. Definition of harassment as it relates to conduct. "Harassment" means intentional conduct directed

toward an identifiable person or persons that is sufficiently severe, pervasive, or persistent that it interferes with work, educational performance, on-campus living, or participation in a University activity on- or off-campus.

b. Definition of harassment as it relates to the content of speech. When an allegation of harassment rests upon the content of oral, written, or symbolic speech, it falls within this definition only if 1) the content consists of those personally abusive epithets which are inherently likely to provoke a violent reaction, 2) the content is a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals, or 3) the content is a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm or death. Conduct that constitutes a protected exercise of an individual's rights under the First Amendment to the United States Constitution (and related principles of academic freedom) shall not be deemed a violation of this policy.

Note: Sexual harassment is addressed by the University's Policy on Sexual Harassment ([II-4](#)).

c. Evidence of harassment. Behavior that may be considered evidence of prohibited harassment, if it meets the definition set forth in paragraph a above, includes, but is not limited to, the following:

(1) repeated contact with another in person, by telephone, in writing, or through electronic means, after the recipient has made clear that such contact is unwelcome.

(2) physical, visual, or verbal behavior directed toward another person or an identifiable group of persons that is intended to be or is reasonably likely to be interpreted as threatening or intimidating. Behavior that constitutes speech is included within this section only to the extent to which it has a direct tendency to incite an immediate violent reaction in a reasonable person or to place a reasonable person in fear of imminent physical harm.

(3) harassment proscribed by the *Iowa Criminal Code*, Chapter 708, including, for example, stalking (708.11), the placement of simulated explosives (708.7), ordering merchandise or services with intent to annoy (708.7), or false reports to police (708.7).

d. Academic freedom. All proceedings under this section shall respect the principles of academic freedom stated in the Statement on Tenure and Academic Vitality at The University of Iowa ([III-10.1a\(2\)](#)), which commits the University to the principle that "free inquiry and expression are essential to the maintenance of excellence."

e. Penalty enhancement. The University reserves the right to impose more severe sanctions on individuals whose actions in violation of this policy are motivated by race, creed, color, national origin, age, sex, disability, sexual orientation, gender identity, or veteran status of the victim.

f. Evidence considered. In determining whether alleged conduct constitutes prohibited harassment, all available evidence and the totality of circumstances will be considered, including the context in which the alleged incident(s) occurred. Although repeated incidents generally create a stronger claim of harassment, a single serious incident can be sufficient. Determinations will be made on a case-by-case basis.

g. Other definitions. Definitions of other terms used in this policy:

(1) Academic or administrative officer includes the following:

(a) Collegiate deans (including associate deans and assistant deans),

(b) Faculty members with administrative responsibilities at the level of departmental executive officer (DEO) or above,

(c) Any staff member whose primary job responsibility is to provide advice regarding a

student's academic pursuits,

(d) A faculty member serving as departmental (or collegiate) director of undergraduate or graduate studies,

(e) The President, Director of Equal Opportunity and Diversity, vice presidents (including assistant and associate vice presidents), and Executive Vice President and Provost (including assistant, associate, and vice provosts), and those persons' designees,

(f) Directors and supervisors in an employment context, other than Department of Public Safety personnel when receiving criminal complaints or reports, and

(g) Human resource representatives.

(2) Alleged victim: a person who allegedly has been harassed in violation of this policy.

(3) Complainant: the person who brings a complaint of violation of this policy, who could be an alleged victim, a third party, or an academic or administrative officer of the University.

(4) Graduate assistant: a graduate student employed by the University as a research assistant or teaching assistant.

(5) Human resources representative: the individual designated as departmental authority on human resource policies and procedures, and all central human resources staff.

(6) Member of the University community: any University student, or faculty or staff member.

(7) Protected interests: University employment, education, on-campus living, or participation in a University activity.

(8) Respondent: a person who has been accused of harassment in a formal complaint.

(9) Specific and credible allegations: allegations that provide factual details such as, but not limited to, time, place, actions, participants, and witnesses. Allegations do not necessarily have to be based on first-hand observation of events to be "specific and credible," but direct observation normally results in greater specificity and credibility than indirect knowledge.

(10) Supervisor: a person who has authority either: 1) to undertake or recommend tangible employment decisions (those that significantly change an employee's employment status, such as, but not limited to, hiring, firing, promoting, demoting, reassigning, and compensation decisions) affecting an employee, or 2) to direct the employee's daily work activities.

(11) Third-party complainant: a person who brings a complaint alleging that someone else has been harassed in violation of this policy.

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### 14.3 SCOPE OF POLICY.

a. Employees and students. This policy applies to all University faculty, staff, and students with respect to conduct that occurs:

(1) on any University property,

(2) at University-related activities occurring off-campus,

(3) while the individual is acting in an official capacity or while conducting University business, or

(4) on-campus or off-campus and has the purpose or reasonably foreseeable effect of unreasonably

interfering with an individual's protected interests.

b. Visitors to campus. The University will make reasonable efforts to prevent and address harassment of its faculty, staff, or students by persons conducting business with or visiting the University, even though such persons are not directly affiliated with the University.

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#### **14.4 BRINGING A COMPLAINT.**

a. A complaint that this policy has been violated may be brought through informal or formal channels by any member of the University community, including a third party, or by the University itself. A complaint must state specific and credible allegations to warrant an investigation. There is no time limit for bringing a complaint; however, it may be difficult to substantiate the allegations made in a complaint brought after significant time has passed. Therefore, prompt reporting of complaints is strongly encouraged.

b. Substantial weight will be given to the wishes of the alleged victim when determining whether to investigate a complaint, but the University may investigate a complaint even without the alleged victim's consent if circumstances warrant (such as when there are multiple complaints against the same person or allegations are particularly egregious).

c. Persons who wish to consult with someone about a specific situation on a confidential basis or learn more about enforcement of this Anti-Harassment Policy may contact any of the following offices or organizations:

- (1) Office of the Ombudsperson (for faculty, staff, or students)
- (2) Faculty and Staff Services (for faculty or staff)
- (3) University Counseling Service (for students)
- (4) Women's Resource and Action Center (for faculty, staff, or students)

Representatives of these offices or other support persons may accompany an alleged victim during the investigation process if the alleged victim so desires.

These offices are exempt from the reporting requirements set forth in II-14.5e. Other offices may be required to report allegations as described in II-14.5e.

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#### **14.5 INFORMAL RESOLUTION OF COMPLAINTS.**

a. A complaint may be brought informally to any academic or administrative officer of the University (as defined in II-14.2g(1)). If the complaint alleges harassment based on a protected classification as defined by [II-3 Human Rights](#) (race, creed, color, national origin, age, sex, disability, sexual orientation, or gender identity), the complaint may be brought to the Office of Equal Opportunity and Diversity, 202 Jessup Hall.

b. The academic or administrative officer will:

- (1) counsel the complainant as to the options available under this policy and, at the complainant's request, will help the complainant resolve the complaint informally and/or refer the complainant to the appropriate office as described in II-14.6a so that the complainant may bring a formal complaint; and
- (2) take appropriate interim action, which may include those actions described in II-14.10, to address the alleged behavior and protect the health or safety of the alleged victim, complainant, and/or witnesses.

c. The following assistance is available to the academic or administrative officer:

(1) The Office of Equal Opportunity and Diversity will assist in determining whether there is a potential policy violation related to a protected classification, and whether reporting pursuant to paragraph e below is required.

(2) For situations involving faculty and/or staff, the Behavior Risk Management team is available to assist with assessing situations, planning the actions needed, and carrying out those actions. This team may be accessed by contacting Faculty and Staff Services, 121-50 University Services Building.

(3) For situations involving students, contact the Office of the Vice President for Student Services, 249 Iowa Memorial Union.

d. When a complaint is brought informally, the person(s) charged in the complaint will not ordinarily be informed of the complaint without the consent of the alleged victim unless circumstances require (such as when there are multiple complaints against the same person or allegations are particularly egregious). No disciplinary action can be taken against a person charged in an informal complaint, and there will be no record of the complaint in the person's employment or student disciplinary file, unless the person is notified of the charges and given an opportunity to respond.

e. Any academic or administrative officer of the University who becomes aware of specific and credible allegations of harassment based on a protected classification (race, creed, color, national origin, age, sex, disability, sexual orientation, or gender identity), whether through the report of a complainant (including a third party) or otherwise, shall report the allegations promptly to the Office of Equal Opportunity and Diversity (except for allegations against a student regarding conduct occurring in the residence halls, which shall be reported to the Office of the Vice President for Student Services) for assistance in evaluating the situation and determining an appropriate course of action, even if the alleged victim has requested that no action be taken. If there is a supervisory relationship between the complainant and/or victim and the respondent, the appropriate course of action will include development of a plan to avoid any perceived or actual conflict of interest until the complaint is resolved. The initial report should be made by telephone, but a written report also must be made after the complaint is resolved using the Office of Equal Opportunity and Diversity Informal Harassment Complaint Resolution form, which requires disclosure of the employment or student status of the alleged victim(s), the complainant(s) (if other than the alleged victim), and the person(s) charged; the department(s) with which those persons are affiliated; a summary of the allegations; and a description of the steps taken to resolve the complaint. If the person charged is informed of the existence of the informal complaint, the names of the parties must be provided to the Office of Equal Opportunity and Diversity. If the person charged is not informed of the complaint, then the names of the parties shall not be provided to the Office of Equal Opportunity and Diversity.

f. Reasonable efforts will be made to process complaints in a timely manner, giving consideration to the nature of the allegations and the circumstances surrounding the complaint process.

g. It is the responsibility of the academic or administrative officer who facilitates the informal resolution of the complaint to monitor compliance with the terms of the informal resolution. Sanctions up to and including termination of employment or separation from the University may be imposed in the event that an individual fails to comply with the terms of the informal resolution.

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#### **14.6 INVESTIGATION OF FORMAL COMPLAINTS.**

a. A formal complaint pursuant to this policy must be brought to one of the following offices for investigation depending upon the status of the respondent and the nature of the allegations:

(1) Protected class harassment. If the complaint alleges harassment based on a classification covered by [II-3 Human Rights](#)

(race, creed, color, national origin, age, sex, disability, sexual orientation, gender identity, or any other classification that deprives the person of consideration as an individual), a formal complaint should be brought to the Office of Equal Opportunity and Diversity regardless of the status of the respondent.

(2) Other harassment. If the complaint alleges harassment that is not based on a classification covered by the [II-3 Human Rights](#)

(race, creed, color, national origin, age, sex, disability, sexual orientation, gender identity, or any other classification that deprives the person of consideration as an individual), a person should bring a formal complaint to one of the following offices depending on the status of the respondent:

- (a) Faculty or instructor. If the respondent is a faculty member, teaching assistant, or other instructor, a formal complaint should be brought to the respondent's collegiate dean or to the Office of the Executive Vice President and Provost;
- (b) Staff member. If the respondent is a staff member (professional and scientific, organized merit staff, or non-organized merit staff), a formal complaint should be brought to the senior human resources representative for the unit employing the respondent;
- (c) Student. If the respondent is a student, a formal complaint should be brought to the Office of the Vice President for Student Services and Dean of Students. However, if the incident occurred in the residence halls, a formal complaint also may be brought to the Director of University Housing.

b. A formal complaint may be brought after an informal resolution was not successfully reached, or may be brought immediately without pursuing informal resolution.

c. The purpose of the investigation is to establish whether there is a reasonable basis for believing that a violation of this policy has occurred. In conducting the investigation, the investigating office will make reasonable efforts to interview the alleged victim, the complainant (if other than the alleged victim), and the respondent, and may interview other persons believed to have pertinent factual knowledge, as well as review any relevant documentary evidence. At all times, the investigating office will take steps to ensure confidentiality to the extent possible.

d. When a formal complaint is brought, the respondent will be informed of the allegations, the identity of the complainant, and the facts surrounding the allegations. The investigation will afford the respondent an opportunity to respond to the allegations and evidence provided by the complainant and/or alleged victim, and to provide a statement of the facts as perceived by the respondent.

e. At the conclusion of the investigation, the investigating office will issue a written finding which will summarize the evidence gathered and state whether or not there is a reasonable basis for believing that a violation of this policy has occurred. The written finding will normally be issued within 45 days of when the complaint was filed. When it is not reasonably possible to issue the finding within that time, the investigating office will notify the alleged victim and the respondent that the finding will be delayed and indicate the reasons for the delay. The alleged victim and the respondent will receive a copy of the written finding, which is to remain confidential as defined by II-14.12c. Third-party complainants will be notified only that the proceedings are concluded.

f. If the investigating office finds a reasonable basis for believing that a violation of this policy has occurred, the matter will be referred to the appropriate administrator for further consideration as outlined in II-14.7 below.

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## 14.7 PROCESS FOR FORMAL DISCIPLINARY ACTION.

a. The following administrators will review the finding of the investigating office:

- (1) the Office of the Executive Vice President and Provost, if the respondent is a faculty member or other instructional personnel (except graduate assistants);
- (2) the office of the vice president or dean responsible for the unit employing the person charged, if the respondent is a staff member;
- (3) the Office of the Vice President for Student Services and Dean of Students, if the respondent is a student;
- (4) the Office of the Dean of the Graduate College, if the respondent is a graduate assistant.

b. The administrator may:

- (1) accept all or any part of the findings of the investigating office;
- (2) not accept all or any part of the findings of the investigating office;
- (3) reach a negotiated settlement of the complaint with the respondent; or
- (4) initiate formal disciplinary action.

c. Violations of this Anti-Harassment Policy may lead to disciplinary sanctions up to and including termination or separation from the University. Sanctions for violations of this policy should be commensurate with the nature of the violation and the respondent's disciplinary history. Those who violate this policy should bear the consequences of their actions, even if factors such as substance abuse or personal problems contribute to misconduct. When the offense is serious, it is appropriate to consider separation from the University even in cases of first offense, and even when the respondent experiences remorse and/or did not intend to cause the resulting degree of harm.

d. In addition to other disciplinary action, persons who are found to have violated this policy may be required to participate in group counseling or personal therapy sessions, complete community service, enroll in a specific academic course, attend an educational workshop, and/or make restitution for economic damages caused by their behavior. When the respondent is a faculty or staff member, the Office of Faculty and Staff Services, 121-50 University Service Building, is available to assist with locating appropriate resources. When the respondent is a student, University Counseling Service, 3223 Westlawn, is available to assist with locating appropriate resources.

e. It is the responsibility of the appropriate administrator to monitor compliance with the disciplinary and/or remedial sanctions imposed. More serious sanctions, up to and including termination of employment or separation from the University, may be imposed in the event that the individual fails to comply with the sanctions initially imposed.

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## 14.8 APPLICABLE PROCEDURES.

Formal disciplinary action resulting from violations of this policy by:

- a. faculty members will be governed by the Faculty Dispute Procedures ([III-29](#)) and that portion of those procedures dealing with faculty ethics ([III-29.7](#)).
- b. staff members will be governed by applicable University policies, including the Ethics and Responsibility Statement for Staff ([III-16](#)), and the applicable discipline and/or grievance procedures ([III-28](#) and/or relevant collective bargaining agreement);
- c. graduate assistants, when dismissal is sought, will be governed by the procedure for dismissal of

graduate assistants ([III-12.4](#)). When disciplinary action other than dismissal is taken by the Dean of the Graduate College, a graduate assistant may appeal through any existing contractual grievance procedures;

d. students will be governed by *Judicial Procedure for Alleged Violations of the Code of Student Life*. Both the [Code of Student Life](#) and the [Judicial Procedure](#) are published and distributed to students annually in [Policies and Regulations Affecting Students](#).

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#### **14.9 ISOLATED BEHAVIOR.**

This section addresses isolated behavior that does not rise to the level of a violation of this policy. However, it should be understood that a single incident can under certain circumstances constitute harassment in violation of this policy. The purpose of this section is preventative, in that it authorizes and encourages appropriate intervention designed to avoid a violation of this policy. However, this section shall not apply to constitutionally protected speech as provided in II-14.2c above.

a. Isolated behavior of the kind described in II-14.2, which does not rise to the level of harassment but which if repeated could rise to that level, demonstrates insensitivity that may warrant remedial measures. Academic or administrative officers who become aware of such behavior in their areas should counsel those who have engaged in the behavior. Such counsel should include a clear statement that the behavior is not acceptable and should cease, information about the potential consequences if such behavior persists, and a recommendation, as appropriate, to undertake an educational program designed to help the person(s) understand the harm caused by the behavior.

b. After such counseling occurs, if a person continues to engage in the conduct described in II-14.9a, he or she may be deemed to have engaged in harassment.

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#### **14.10 PROTECTION OF ALLEGED VICTIMS, COMPLAINANTS, AND OTHERS.**

a. Alleged victims will be informed of relevant procedural steps taken during the investigation and any interim protective measures taken.

b. Throughout the investigation and resolution of a complaint, steps will be taken to protect alleged victims, complainants, witnesses, and others from harm caused by continuation of the alleged harassing behavior.

c. Retaliation against alleged victims, complainants, and/or witnesses who provide information during an investigation pursuant to this policy is prohibited by [II-11 Anti-Retaliation](#). Reasonable action will be taken to assure that alleged victims, complainants, and/or witnesses suffer no retaliation as a result of their activities with regard to the process.

d. Steps that may be taken to protect alleged victims, complainants, witnesses, and others from continued harassment and/or retaliation might include:

- (1) lateral transfers of one or more of the parties in an employment setting and a comparable move if a classroom setting is involved, and
- (2) arrangement that academic and/or employment evaluations concerning complainants or others be made by an appropriate individual other than the respondent.

e. Any retaliation against alleged victims, complainants or witnesses should be reported pursuant to the Anti-Retaliation Policy ([II-11](#)). Retaliation may result in disciplinary action against the person committing the retaliatory act(s).

f. In extraordinary circumstances, the Executive Vice President and Provost, a dean, a DEO, or any vice president may, at any time during or after an investigation of a harassment complaint, suspend or partially restrict from employment any employee accused of harassment if the Executive Vice President and Provost, dean, DEO, or vice president finds that it is reasonably certain that:

- (1) the alleged harassment has occurred, and
- (2) serious and immediate harm will ensue if the person continues his or her employment.

Similarly, if the respondent is a student, interim sanctions may be imposed pursuant to Section 10 of the [Judicial Procedure for Alleged Violation of the Code of Student Life](#).

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#### **14.11 PROTECTION OF THE RESPONDENT.**

a. This policy shall not be used to bring knowingly false or malicious charges. Bringing such a charge constitutes a violation of this policy, and may subject the complaining party to remedial and/or disciplinary action up to and including termination or separation from the University. Any such disciplinary action will be initiated by the appropriate administrator overseeing the complainant(s).

b. In the event the allegations are not substantiated, reasonable steps will be taken to restore the reputation of the respondent if it was damaged by the proceeding. The respondent may consult with the investigating office regarding reasonable steps to address such concerns.

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#### **14.12 CONFIDENTIALITY.**

a. In order to empower community members to voice concerns and bring complaints, the confidentiality of all parties will be protected to the greatest extent possible. However, legal obligations may require the University to take some action once it is made aware that harassment may be occurring, even when the alleged victim is reluctant to proceed. Appropriate University officials will be consulted, including the Office of Equal Opportunity and Diversity when the complaint alleges harassment based on a protected classification (see II-14.5e), and information will be shared only with those individuals who need to know it to implement this policy.

b. The parties to a complaint (alleged victims, third-party complainants, and respondents) are expected to maintain confidentiality as well. Parties are not prohibited from discussing the situation outside of the work or educational environment. However, the matter should not be discussed in the work or educational environment.

c. Dissemination of documents relating to a complaint and/or investigation, other than as necessary to pursue an appeal, grievance, or other legal or administrative proceeding, is prohibited.

d. Failure to maintain confidentiality by a respondent may be considered to be a form of retaliation in violation of II-14.10c of this policy. Failure to maintain confidentiality by any party (alleged victim, third-party complainant, or respondent) may result in disciplinary action.

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