

**DRAFT (11-17-08)**

**PLEASE FORWARD COMMENTS OR QUESTIONS  
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## **F. Student Sexual Misconduct Policy ~~Sexual Assault~~ Policy and Programs**

### **INTRODUCTION**

**University of Iowa strives to create a safe, non-threatening environment for its students. This sexual misconduct policy sets forth student resources, describes prohibited conduct, articulates student rights, and establishes University procedures for responding to sexual misconduct incidents that include sexual assault, sexual harassment and relationship violence.**

~~The University of Iowa believes that sexual abuse in any form is reprehensible, especially within the University environment. All forms of non-consensual physical contact of a sexual nature, such as rape, unwelcome touching of genitals or breasts, and forced oral sex, are prohibited. When an assault occurs and a complaint is filed, the University will undertake every reasonable effort to discipline the offender and pursue criminal charges, regardless of the offender's status in the University community. For victims of sexual assault, the University provides a variety of confidential and free services, including advocacy and counseling, and makes reasonable adjustments to alleviate related problems with academic class schedules and housing arrangements.~~

### **POLICY STATEMENT**

**Sexual Misconduct is prohibited and will not be tolerated at the University of Iowa. Any act that falls within the definition of sexual misconduct constitutes a violation of University policy. The University is committed to creating a campus environment that both promotes and expedites prompt reporting and timely and fair adjudication of sexual misconduct cases. Special emphasis in the University policy and procedures is placed on the rights, needs and privacy of the victim and the rights of the accused. The University adheres to all federal, state and local requirements for intervention, crime reporting and privacy provisions related to sexual misconduct.**

**The elements of this policy are blind to the sexual orientation or preference of individuals engaging in sexual activity or sexually exploitive behavior. This policy will be made available to all students. In addition, the University will establish**

educational opportunities for students to ensure they understand the policy and are knowledgeable on ways to stay safe.

### **DEFINITION: SEXUAL MISCONDUCT**

**Sexual Misconduct is a broad term encompassing any non-consensual physical contact of a sexual nature that is committed either by force or intimidation or through the use of the victim's mental or physical incapacity, including through the use of drugs or alcohol.**

**For purposes of this policy, consent is a freely and affirmatively communicated willingness to participate in sexual activity, expressed either by words or actions. It is the responsibility of the initiator of the sexual activity to insure he or she has the consent from the other to engage in sexual activity. The existence of a dating relationship between the persons involved, or the fact of a past sexual relationship should never provide the basis for an assumption of consent.** In some cases, consensual sexual activity occurs before an assault or after an assault. Disciplinary sanctions will be imposed regardless of whether the non-consensual sexual activity was preceded or followed by consensual sexual activity.

An individual who has consumed alcohol or other drugs, knowingly or unknowingly, may not be able to give free and full consent. **The University will not pursue disciplinary violations against a complaining student or witness for improper use of alcohol or drugs if the student is making a good faith report of sexual misconduct. However,** the assailant's use of alcohol or other drugs does not diminish his or her responsibility for the assault. In cases where the victim unknowingly consumed alcohol or other drugs prior to an assault, additional sanctions will be imposed upon the assailant if he or she administered the drug to the victim or was aware that a drug had been consumed.

**Sexual misconduct may vary in its severity and consists of a range of behavior or attempted behavior including, but not limited to, the following examples of prohibited conduct:**

**Sexual Assault: Sexual Assault is an extreme form of sexual harassment and represents a continuum of conduct from forcible rape to nonphysical forms of pressure that compel individuals to engage in sexual activity against their will. Examples of sexual assault include, but are not limited to the following:**

- **sexual intercourse, oral or anal without consent**
- **rape, sexual intercourse without consent either by an acquaintance or a stranger**
- **attempted rape**
- **penetration of an orifice (anal, vaginal, oral) with the penis, finger, or other object**

- intentional touching of the genitals, buttocks, or breast or other unwanted touching or groping
- coercion or force to make someone else touch one's genitals, buttocks, or breast, or other unwanted touching
- inducing consent through drugs or alcohol
- initiating sexual activity with a person who is unable to provide consent due to alcohol, drug, or other condition

### **Sexual Exploitation**

Sexual exploitation involves taking non-consensual sexual advantage of another person. Examples can include, but are not limited to the following behaviors:

- electronic recording, photographing, or transmitting images without knowledge and consent of all parties
- voyeurism (sexual interest in spying on others)

### **Sexual Intimidation**

Sexual intimidation involves threatening another person that you will commit a sex act against them, making unwanted sexual advances or requests for sexual favors, or engaging in indecent exposure.

### **Sexual Harassment**

Sexual harassment is a form of discrimination, as defined in the university Discrimination and Harassment policy. Sexual harassment can include unwelcome behavior (verbal, written, physical) that is directed at someone because of that person's sex or gender, and

- submission or consent to the behavior is believed to carry consequences for the student's education or employment (e.g., pressure to engage in sexual behavior to further the education or employment, or if rejecting the behavior would carry a consequence), or
- the behavior has the purpose or effect of substantially interfering with an individual's education or employment by creating an intimidating, hostile, or demeaning environment (e.g., persistent efforts to develop a sexual relationship, unwelcome commentary (verbal, written, or electronic) about an individual's body or sexual activities).

### **Criminal Definitions & University Standards**

State law defines sexual abuse as a sex act done by force or against the will of another person (Code of Iowa, §709.1). A sex act generally means any sexual contact between two or more persons, including but not limited to intercourse (vaginal or anal), oral-genital contact, and contact of genitals or anus with a finger or an object (Code of Iowa, §702.17). Criminal sexual abuse is one example of non-consensual physical conduct prohibited by University policy.

## **JURISDICTION: ON-CAMPUS AND OFF-CAMPUS**

University policy prohibits all members of the University community - students, staff, and faculty - from engaging in non-consensual physical conduct of a sexual nature on University property or in connection with University activities. Policy violations warrant the imposition of University disciplinary sanctions and may result in criminal charges. Sanctions may also be imposed for non-consensual physical conduct committed on non-University property which adversely affects a student's educational status. ~~or a staff or faculty member's employment status.~~

~~On every occasion an individual old enough to give consent has the right to decide the extent of physical sexual activity in which he or she wishes to engage, if any, with another willing partner.~~

## **STUDENT RESOURCES: REPORTING OPTIONS & MEDICAL ASSISTANCE**

**If you or someone you know has been a victim of sexual misconduct, remember:**

**It is an act of violence that should be reported immediately. Counseling and health centers are available to students free of charge. Confidential counseling services are available whether or not you decide to report an incident of sexual misconduct to the University or the police.**

**Students are strongly encouraged to report incidents of sexual misconduct as soon as possible. It is important to the University that students share any information they have regarding such behavior because reporting is the only way that action can be taken against the alleged violator of this policy.**

**Timely reporting and a medical examination within 72 hours is critical in preserving evidence of a sexual assault, and the ability to respond effectively, but a victim can report an incident at any time.**

**The University provides an array of on-campus services to victims including confidential crisis intervention, health care, counseling, and related assistance, including changing academic programs and living situations.**

**After reporting alleged sexual misconduct to University officials, a student may request the following:**

- 1. Change of an on-campus student's housing to a different on-campus location;**
- 2. Transferring class sections;**
- 3. Assistance in exploring alternative housing, incompletes, leaves or withdrawal, and**

#### **4. Request issuance of a no-contact order.**

**Please contact the Office of Student Affairs, Sexual Misconduct Coordinator to request the above mentioned housing and academic accommodations at (address and telephone number).**

**The University encourages students to contact the following student resources for advocacy, support and reporting:**

### **Confidential Advocacy & Counseling Resources**

The following ~~confidential~~ resources are available to students, faculty and staff who have been assaulted:

#### **Counseling Resources**

##### **Confidential:**

- Sexual Abuse Crisis and Resource Line (335-6000 or 1-800-284-7821) open 24 hours a day.
  - Rape Victim Advocacy Program (335-6000 or 1-800-284-7821). RVAP provides advocacy services within any University of Iowa administrative process or any court proceeding.
  - University Counseling Services (335-7294).
  - ~~Faculty & Staff Services University Employee Assistance Program (335-2085).~~
- ~~Advocacy Resources:~~

##### Other **Limited** Confidential Resources

- Women's Resource & Action Center (335-1486).
- Office of the Ombudsperson (335-3608).

#### **Health Resources**

**If you were recently a victim of sexual assault, you may want to consider going to the hospital or clinic for a sexual abuse evidentiary examination. An evidentiary examination does not require a victim to file formal University or Criminal charges. Rather the examination serves to preserve evidence in the instance when a victim may wish to move forward on charges in the future. Additionally, a hospital or clinic provides necessary medical advice and medication in case a victim may have contracted a sexually transmitted disease (STD) or possesses pregnancy concerns. The evidentiary exam is fully covered and paid for by the State of Iowa and will not be submitted for insurance purposes.**

*Provide Contact Information for Local Hospital*

*Provide Contact Information for University Health Center*

### University Resources

**As noted above, the University provides a wide array of services to victims of sexual misconduct. In addition to the University counseling and advocacy resources, and the Student Health Center, the University's Office of Student Affairs, Sexual Misconduct Coordinator provides victims with housing and academic accommodations and serves as the primary contact and resource for reporting and/or filing University charges of sexual misconduct.**

**The Office of Student Affairs, Sexual Misconduct Coordinator can be reached at (provide address, telephone and hours) and serves to coordinate all student interactions with university officials, as it relates to a report of sexual misconduct.**

### Law Enforcement Resources

~~A victim of a sexual assault has two primary reporting options.~~ An assault may be reported to the appropriate law enforcement agency or to the University administration, or both. The victim should be aware that a criminal investigation is greatly enhanced if evidence is collected and maintained immediately by the appropriate law enforcement agency.

In many cases, a victim can speak with a law enforcement about whether or not to file charges before making that decision. Victim advocates have special training in working with law enforcement. The RVAP Sexual Abuse Crisis and Resource Line can help the victim make an appointment with a law enforcement officer to discuss options.

Assaults should be reported to the law enforcement agency that has jurisdiction over the location where the assault or abuse occurred. Institutional officials will assist victims in reporting the incident to the police if requested to do so.

- If the assault occurred on University of Iowa property, call the University of Iowa Department of Public Safety at 335-5022
- If the assault occurred in Iowa City, call the Iowa City Police Department at 356-5275
- If the assault occurred in Coralville, call the Coralville Police Department at 248-1800
- If the assault occurred in another area of Johnson County, call the Johnson County Sheriff's Department at 356-6020

- If you are unsure where to call, contact the RVAP Sexual Abuse Crisis and Resource Line (335-6000) for assistance
- If the assault took place on non-University property and was reported to another law enforcement agency, students and staff are encouraged to contact the University Department of Public Safety for assistance with safety issues while on campus
- In case of an emergency, call 911 from wherever you are and a law enforcement officer will respond to assist you.

## **UNIVERSITY REPORTING PROCEDURES**

**University of Iowa takes incidents of sexual misconduct very seriously and encourages students to report all incidents. Therefore, it is important for students to understand their reporting options. Students are free to report instances of sexual misconduct to the University regardless of whether or not they choose to press formal charges with law enforcement.**

**In all situations, the University’s goal is to treat all complaining students with sensitivity and fairness while also ensuring that the accused individual receives appropriate due process if any disciplinary action is imposed. Both the complainant and the accused are entitled to an advisor/advocate throughout the reporting, investigation and hearing processes.**

**Students who have been victims of sexual misconduct may file formal charges with the Office of Student Affairs, \_\_\_\_\_, address and phone. Complaints, investigations and adjudications of sexual misconduct incidents shall be governed by the *Code of Student Life, Section II.B of Policies and Regulations Affecting Students*. (provide a hotlink to the relevant provisions of the code) and will be handled by the Office of Student Affairs, \_\_\_\_\_.**

### **Interim Actions to Protect Students**

**If the University determines that the alleged assailant may pose a danger to the University community, the University can impose interim action, such as an interim suspension, against the alleged assailant. Additionally, the University possesses the ability to issue a no-contact order if continued contact between a complaining student, an alleged assailant, or a witness would be prejudicial to any of the parties’ welfare. (reference provision in *Code of Student Life or University Regulations that permits this action*)**

**Contact the Office of Student Affairs, \_\_\_\_\_ (address and telephone), if a victim and/or a witness feels such action would be required.**

### **Scope and Timeframes**

**Enrolled students who have been victims of sexual misconduct may file formal University charges with the Office of Student Affairs, Sexual Assault Coordinator (provide address and telephone number) if the alleged assailant is also an enrolled student.**

**Although there is no time limit on the filing of formal charges with the University, a prompt formal charge is likely to result in a more satisfactory investigation because memories are fresh and witnesses are more readily available.**

~~**Reporting an assault to University administration**~~ University administrators affiliated with non-police departments also receive reports of crimes. Assaults that are reported to the director of equal opportunity & diversity or the vice president for student services & dean of students are included in the annual campus crime statistics. Under the University Violence Policy, residence hall personnel (including resident assistants) are mandatory reporters and will forward reports of assaults to the dean of students and the Office of Equal Opportunity & Diversity.

The Office of Equal Opportunity & Diversity is the administrative department designated to investigate disciplinary complaints of sexual assault involving faculty, staff or students. When a complaint is filed, an investigation is undertaken pursuant to the Policy on Sexual Harassment. The findings of the Office of Equal Opportunity & Diversity will be forwarded to the appropriate University administrator responsible for discipline of the respondent depending upon the status of the person accused of misconduct.

Individuals with questions or concerns about the University's sexual assault policy and its enforcement may contact the Title IX Coordinator in the Office of Equal Opportunity & Diversity (335-0705).

- ~~8. You are entitled to have an advocate from a sexual assault crisis center present with you to provide support during the exam.~~
- ~~9. The sexual assault evidence exam and follow-up treatment are paid for by the State of Iowa. You should not receive a bill.~~
- ~~10. The exam is available to women and men. When children are assaulted they are often seen at one of Iowa's Child Protection Centers. You may want to check with your local law enforcement agency about this possibility.~~
- ~~11. You can get an evidentiary exam even if some time has passed since you were assaulted.~~
- ~~12. If the assault just happened, try and wait until after the exam to shower or bathe, so that the greatest amount of evidence might be preserved. If you have already showered, it is still fine to go ahead and have the exam.~~
- ~~13. If you have had any period of amnesia associated with the assault, tell the sexual abuse examiner you would like to give a urine sample to screen for~~

possible drugs. If you cannot remember what happened you may have been given drugs without your knowledge.

14. If you are still wearing the clothes you had on during the assault, it might be best to wear them to the exam and bring a change of clothing with you to wear home.

### **Student Disciplinary Action and Sanctions**

A University of Iowa student who is found guilty of sexual assault in violation of the Code of Student Life is ordinarily suspended or expelled from the University. When a complaint is filed alleging that a student has committed a sexual assault, the Dean of Students imposes interim sanctions as appropriate in consultation with the Office of Equal Opportunity & Diversity. A University no-contact order is issued, and the student accused of assault is told in writing that any contact with the complainant will result in disciplinary action. In addition, the accused student may be involuntarily transferred to a different residence hall, different class, or different work unit following receipt of a complaint depending upon the circumstances of the case and available alternatives. University policy prohibits a student accused of misconduct from retaliating against the complainant or witnesses, regardless of the outcome of the complaint.

If the Dean has probable cause to bring disciplinary charges based on the Office of Equal Opportunity & Diversity investigation, the complaint will be resolved at a formal hearing. At the hearing, evidence will be presented against the accused student. Hearings are conducted by administrative hearing officers, who record the evidence presented and determine whether the student charged is guilty of violating University regulations. Both the complainant and the accused are entitled to have an advisor present during the initial investigation and during a hearing. A student accused of misconduct is provided a minimum of seven business days to prepare for a hearing, and the hearing officer will issue a decision within two weeks following the conclusion of the hearing. Both parties will be informed in writing of the final determination regarding the outcome of the complaint and any sanctions imposed upon the accused.

If the accused student is found guilty, the sanctions determined by the Dean of Students will be imposed. A student found guilty of violating the Code of Student Life may appeal the hearing officer's decision to the University Provost. Appeals must be filed within 10 days following receipt of the hearing officer's decision, and the Provost answers appeals within 30 days. A complete description of the Judicial Procedure for Alleged Violations of the Code of Student Life posted at section II.B of *Policies and Regulations affecting Students*.

### **Confidentiality Statement**

**University of Iowa is committed to creating an environment that encourages victims of sexual misconduct to come forward and report their victimization and makes every effort to safeguard the identities of students who seek help and/or report sexual misconduct. However, it is important for students to understand the bounds**

**of confidentiality of individuals that they may contact for assistance following an incident of sexual misconduct. Different people, depending upon their position, have different duties with regard to confidentiality.**

**Under Iowa law, some individuals can assure you that your communications are confidential. While you should always confirm whether confidentiality applies, generally those persons are an RVAP advocate, a psychological counselor (including counselors at the University Counseling Services), a health care provider (including medical professionals at UOI Student Health Center), or a religious spiritual counselor.**

**Any other university employee cannot guarantee you complete confidentiality. As is the case with all colleges and universities, University of Iowa must balance the needs of the individual victim with its obligation to protect the safety and well being of the community at large. Therefore, depending on the seriousness of the alleged incident, a University security alert may be posted throughout the campus. The alerts never contain any information identifying victims and/or assailants.**

### **RETALIATION**

**University of Iowa prohibits retaliatory action against any person filing a complaint of sexual misconduct or against any person cooperating in the investigation of any charge of sexual misconduct. This includes any form of intimidation, threats or harassment. The University prohibits an individual knowingly filing false charges of sexual misconduct. Acts of retaliation and of knowingly filing false charges of sexual misconduct constitute violations of the Student Code and will result in disciplinary action.**

### **EDUCATIONAL PROGRAMS AND DISSEMINATION**

#### **Educational Programs**

The University urges all students and employees to be aware of one's personal safety and assume a responsible role in educating others. Persons age 16 to 24 are more vulnerable to sexual assault than any other age group, and the Iowa City community is not immune to the problems, which persist, in more densely populated environments. Although no single individual is invulnerable to sexual assault, research indicates that most victims of unwanted sexual attention are women, and in many cases the male aggressor is not a stranger.

Each year, a copy of this policy is mailed to every student and employee, along with the Code of Student Life, the Sexual Harassment Policy, the Violence Policy, and the Campus Security Statement. Throughout the academic year, members of the University community are invited to attend a variety of extracurricular programs presented on campus. [Programs include sexual harassment seminars conducted by the Office of Equal Opportunity & Diversity; security awareness skits in freshman student orientation; RAD](#)

(Rape Aggression Defense) classes taught by UI police officers; healthy relationship and communication workshops organized and conducted by students; professional training on sexual assault issues provided for University staff by RVAP; and Saferide, a late-night fixed route transportation service offered by the Campus Transit System. (list may need revising depending on the determinations on which University Offices will handle student complaints as it relates to sexual misconduct and we may also add some educational trainings) In addition to investigating reports of sexual **misconduct** assault and filing criminal charges, Public Safety law enforcement officers are available to speak to the University community about a variety of security-related issues, including sexual assault.

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