

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
SOUTHERN DIVISION

ROBERT DUNN,

Plaintiff,

v.

STEVEN LEATH, President of Iowa State University, in his official and individual capacities; **MARTINO HARMON**, Senior Vice President for Student Affairs at Iowa State University, in his official and individual capacities; **KEITH E. ROBINDER**, Interim Dean of Students, in his official and individual capacities; **REGINALD STEWART**, Senior Vice President for Diversity and Inclusion at Iowa State University, in his official and individual capacities; **MARGO FOREMAN**, Director of the Office of Equal Opportunity and Title IX Coordinator at Iowa State University, in her official and individual capacities; **SARA KELLOGG**, Assistant Dean and Director of the Office of Student Conduct, in her official and individual capacities; and **MEMBERS OF THE STUDENT CONDUCT HEARING BOARD**, in their official capacities,

Defendants.

Case No. _____

**VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff Robert Dunn, by and through counsel, and for his Verified Complaint against the Defendants, hereby states as follows:

INTRODUCTION

1. Public universities serve our society as “marketplaces of ideas,” where the young adults who are tomorrow’s leaders are exposed to differing opinions. This marketplace cannot function

if students must fear punishment, including expulsion from the university, if their views are deemed objectionable by fellow students or administrators. This is unfortunately the case at Iowa State University.

2. This is a civil action seeking injunctive and declaratory relief, to vindicate and safeguard Plaintiff Robert Dunn's fundamental rights as secured by the First and Fourteenth Amendments to the United States Constitution.

3. Iowa State University ("ISU") punishes student speech that ISU expressly acknowledges is protected by the First Amendment.

4. ISU's "harassment" policies prohibit students from even saying words that "annoy" one another, and admit they "may cover those activities which . . . [do not] meet the legal definition of harassment."

5. Indeed, ISU even claims that "[e]ngaging in First Amendment protected speech" may nevertheless be punished as harassment "depending on the circumstances."

6. These ISU policies operate as an unconstitutional speech code that chills protected student speech by prescribing punishment of students on the subjective reactions of listeners, including whether fellow students and ISU administrators believe a student's speech is "necessary" or "a legitimate topic."

7. These facially unconstitutional ISU policies are made worse by administrators' interpretations of these policies and warnings to Dunn and others, discouraging student speech on campus. Defendants have now mandated that every student pledge compliance with these unconstitutional policies or face sanctions, including a hold on their graduation.

8. Defendants' policies and actions deprive Plaintiff Robert Dunn, and others similarly

situated, of their fundamental rights under the United States Constitution.

9. Each and every action of the Defendants alleged herein was committed by Defendants under the color of state law and authority.

JURISDICTION & VENUE

10. This action raises federal questions under the United States Constitution, particularly the First and Fourteenth Amendments, and the Civil Rights Act of 1871, 42 U.S.C. §§ 1983 and 1988.

11. This Court has original jurisdiction over the federal claims by operation of 28 U.S.C. §§ 1331 and 1343.

12. This Court has authority to grant the requested declaratory relief under 28 U.S.C. §§ 2201 and 2202, the requested injunctive relief under 28 U.S.C. § 1343 (a)(3)–(4), the requested nominal damages under 28 U.S.C. § 1343(a)(4), and attorneys’ fees under 42 U.S.C. § 1988(b).

13. Venue is proper in the United States District Court for the Southern District of Iowa under 28 U.S.C. § 1391, because the events giving rise to the claims occurred in this District, and because at least one Defendant resides in this District.

PLAINTIFF

14. Plaintiff Robert Dunn is, and was at all times relevant to this Complaint, a student at Iowa State University. Dunn is a resident of Ames, Iowa.

DEFENDANTS

15. Defendant Leath is, and was at all times relevant to the Complaint, the President of ISU.

16. Defendant Leath is responsible for the promulgation, interpretation, and application of all university policies applying to students, including the student disciplinary regulations and harassment policies complained of herein.

17. Any changes to university policies applying to students are subject to the approval of Defendant Leath.

18. Defendant Leath is responsible for hearing appeals, in his discretion, of any decisions applying the student conduct regulations or ISU harassment policies to students.

19. Defendant Leath is sued in both his official and individual capacities.

20. Defendant Martino Harmon is, and was at all times relevant to the Complaint, the Senior Vice President for Student Affairs at ISU.

21. Defendant Harmon is the chief officer primarily responsible for ISU student disciplinary regulations and policies, including the policies complained of herein.

22. Defendant Harmon is responsible for hearing appeals of Student Conduct Hearing Board (“SCHB”) recommendations after a decision by the Dean of Students and has final authority over all appointments to the Student Conduct Hearing Board.

23. Defendant Harmon’s determination as to whether a student has violated student conduct policies, including those complained of herein, is final, subject only to discretionary review by the President or appeal to the Board of Regents.

24. Defendant Harmon is responsible for establishing committees to review the Student Disciplinary Regulations and recommend amendments to them to the university community.

25. Defendant Harmon is sued in both his official and individual capacities.

26. Defendant Keith E. Robinder is, and was at all times relevant to the Complaint, the Interim Dean of Students at ISU.

27. Defendant Robinder is responsible for the operation of the Office of Student Conduct.

28. Defendant Robinder reviews decisions of the Student Conduct Hearing Board and is

responsible for issuing decisions of the SCHB.

29. Defendant Robinder is empowered to suspend a student while any investigation is pending into violation of ISU policies, including those complained of herein.

30. Defendant Robinder is responsible for receiving and considering Amendments to the Student Disciplinary Regulations and may, in his discretion, call for establishment of a committee to recommend amendments to the Student Disciplinary Regulations.

31. Defendant Robinder is sued in both his official and individual capacities.

32. Defendant Reginald Stewart is, and was at all times relevant to the Complaint, the Senior Vice President of Diversity and Inclusion at ISU.

33. Defendant Stewart is responsible for the conduct of the Office of Equal Opportunity and Title IX at ISU.

34. Defendant Stewart interpreted Iowa State policies and instructed Dunn about their application to conservative speech on campus, chilling students in the exercise of their First Amendment rights.

35. Defendant Stewart is sued in both his official and individual capacities.

36. Defendant Margo Foreman is, and was at all times relevant to the Complaint, the Director of the Office of Equal Opportunity and Title IX Coordinator for ISU.

37. Defendant Foreman is responsible for interpreting, communicating, and investigating alleged violations of ISU's non-discrimination and harassment policies, including the policies complained of herein.

38. Defendant Foreman is responsible for the mandatory Title IX training for all ISU students, including Dunn, and for instructing her staff as to the consequences for students' failure

to complete the training and certify compliance with the ISU policies complained of herein.

39. Defendant Foreman is sued in both her official and individual capacities.

40. Defendant Sara Kellogg is, and was at all times relevant to this Complaint, an Assistant Dean and Administrator of the Office of Student Conduct at ISU.

41. Defendant Kellogg is responsible for reviewing reports of violations of university policies, including those complained of herein, assigning those complaints for investigation, determining whether a complaint should receive a hearing and which hearing body should have jurisdiction, determining whether a complaint should be treated as a Level 1 or Level 2 violation – and thus the potential sanction for the offense, maintaining all records of disciplinary actions, and informing complainants of the outcome of any complaints.

42. Defendant Kellogg is also responsible for training the members of the Student Conduct Hearing Board, other boards addressing student conduct, and administrators of the Student Disciplinary Regulations.

43. Defendant Kellogg is sued in both her official and individual capacities.

44. Defendant Members of the Student Conduct Hearing Board is comprised of forty-five faculty, staff, students and graduate students at ISU.

45. The SCHB hears cases alleging a violation of the Student Code of Conduct, including those policies complained of herein, which may result in suspension or expulsion from ISU.

46. The Defendant Members of the Student Conduct Hearing Board may also hear cases involving a minor violation of these policies where referred by the Office of Student Conduct.

47. Defendant Members of the SCHB are nominated by members of the university community or the Faculty Senate, the Senior Vice President for Student Affairs, the Graduate and

Professional Student Senate, Student Government, and the Dean of Students, all subject to approval by Defendant Harmon.

48. The Defendant Members of the SCHB are responsible for interpreting and applying university policies, including those complained of herein, and recommending findings and sanctions to the Dean of Students.

49. The Defendant Members of the Student Conduct Hearing Board are sued in their official capacities.

FACTUAL BACKGROUND

50. Dunn is a student at ISU.

51. Dunn is a Christian. He is also a political conservative and a member of Young Americans For Freedom, a national conservative student organization. He is the Founder and President of the ISU Young Americans for Freedom (YAF).

52. Dunn desires to exercise his First Amendment right to share and advocate for his beliefs, including their application to the social, political and cultural issues, and events of the day.

ISU SPEECH CODE POLICIES

53. ISU maintains several policies regulating student speech. One such policy, its policy on “Discrimination and Harassment” is available online at <http://www.policy.iastate.edu/policy/discrimination>. A true and correct copy of this policy is attached to this Complaint as Exhibit 1.

54. Section 1.0, the “Discrimination and Harassment Defined” in this “Discrimination and Harassment” policy, confirms that the university will prohibit expression well beyond that which is actually harassment: “[T]his policy may cover those activities which, although not severe,

persistent, or pervasive enough to meet the legal definition of harassment, are unacceptable and not tolerated in an educational or work environment.” *See* Ex. 1

55. In determining whether a student’s speech is sanctionable harassment, Section 3.4 of the “Discrimination and Harassment” policy identifies several factors, including those noted below, empowering Defendants and other ISU administrators to punish student expression based on listeners’ subjective views about the value of that expression:

- The tone of voice, gestures and behavior of the speaker;
- Whether there is conduct or speech which indicates a discriminatory purpose or a constructive purpose;
- Whether the speech is made in a context where the recipient is in a position to avoid the speaker;
- Whether the speech is germane to an academic exercise and recognized by peers as a legitimate topic or way of presenting academic material;
- Whether the speech is made in a public forum on a matter of public concern, or otherwise in a context in which free debate is encouraged;
- Whether the speech is directed toward specific individuals or a specific group of individuals;
- The degree to which the expression was necessary to the discussion of the subject matter; . . . and
- Whether the speaker did or could anticipate that the speech would intimidate or interfere with an individual's ability to continue to participate in university activities.

56. Students found guilty of violating the “Discrimination and Harassment” policy are subject to sanctions including expulsion from ISU.

57. Defendants have also promulgated and enforced the “Student Disciplinary Regulations (Code of Conduct),” last updated on July 29, 2016.

58. The Student Disciplinary Regulations prescribe prohibited conduct for all ISU students. A true and correct copy is attached to this Complaint as Exhibit 2.

59. Section 4.2.8 of the ISU “Student Disciplinary Regulations” prohibits “Harassment and Discriminatory Harassment,” defining “harassment,” in Section A of that policy, in conflict with

the “Discrimination and Harassment” policy above, as “any act or acts done without legitimate purpose and with the intent to intimidate, annoy or alarm another.”

60. Section 4.2.8 also prohibits “discriminatory harassment” as follows:

B. Discriminatory Harassment, as defined by the university’s Discrimination and Harassment policy, is prohibited. Discriminatory harassment is unwelcome behavior directed at an individual or group of individuals 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 other protected class when the behavior has the purpose or effect of substantially interfering with the student's education or employment by creating an intimidating, hostile, or demeaning environment.

1. Examples can include but are not limited to threats, physical contact or violence, pranks, jokes, bullying, epithets, derogatory comments, vandalism, or verbal, graphic, written, or electronic conduct directed at an individual or group of individuals because of a protected class. Even if actions are not directed at specific individuals, a hostile environment may be created when the behavior is sufficiently severe, pervasive, and objectively offensive so as to substantially interfere with or limit the ability of an individual to work, study, or otherwise to participate in activities of the university.
2. Engaging in First Amendment protected speech activities may not rise to the level of harassment, depending on the circumstances.

61. Plaintiff recognizes that Defendants may prohibit students from engaging in true threats, violence, and vandalism, and does not challenge those elements of Section B.1. Plaintiff also recognizes that Defendants may prohibit students from engaging in other “behavior [that] is sufficiently severe, pervasive, and objectively offensive so as to substantially interfere with or limit the ability of an individual to work, study, or otherwise to participate in activities of the university,” and he does not challenge the policy’s application to such behavior.

62. This policy, however, prohibits far more expression than just these narrow categories. For example, Defendants’ policy permits punishment of student speech that actually

causes no harm at all. It also permits punishment of speech that Defendants acknowledge is protected by the First Amendment as long as they deem that the “circumstances” merit punishment.

63. Defendants have not promulgated any policies identifying the “circumstances” in which First Amendment activity will or will not be deemed punishable harassment. Thus, Defendants have afforded themselves unbridled discretion to determine the circumstances in which acknowledged First Amendment protected speech may be prohibited or permitted.

64. Students may report violations of these policies to the Office of Student Conduct and the Office of Equal Opportunity.

65. Defendant Foreman and Defendant Kellogg may also initiate an investigation into a student’s violation of these policies on their own initiative in the absence of any report by another student.

66. Defendant Kellogg reviews all reports of violations to determine whether there is sufficient evidence for charges and whether those charges are at the Level 1 or Level 2 classification.

67. Level 1 cases are “any violation of the Student Disciplinary Regulations which may result in a sanction up to and including suspension or expulsion.”

68. Matters considered a Level 2 case are “defined as any violation of the Student Disciplinary Regulations which may result in a sanction up to and including Deferred Suspension. Level 2 cases cannot result in a student being suspended or expelled from the institution.”

ISU REQUIRES STUDENTS TO PLEDGE COMPLIANCE WITH THESE POLICIES

69. On August 4, 2016, prior to the beginning of the Fall 2016 semester, Mr. Dunn received

an email sent on behalf of Defendant Foreman bearing the subject line: “Action required: Title IX training program.” A true and correct copy of this email is attached to this Complaint as Exhibit 3.

70. The email announced a new training program on “the university’s non-discrimination policies and procedures” to be completed online, noting that “[t]his training is an annual requirement” to be completed every subsequent August.

71. The online course is titled “Title IX Awareness and Violence Prevention for Higher Education Students.” The course is available online with a student’s unique password at <https://slate.workplaceanswers.com/course/select.aspx>.

72. The 118-slide training course provides no acknowledgement of any free speech rights of students nor their interplay with the university policies addressed in the training and complained of herein.

73. For example, the training course states that “gossip” about a male student’s “feminine dress” could be harassment, failing to even acknowledge that students also possess First Amendment rights that might be implicated. The training also informs students that “conduct doesn’t have to be directed at the target to be harassing.”

74. A student could reasonably conclude from this online mandatory training problem that any discussion of gender identity could be sexual harassment under ISU policies if any listener—even if not the intended listener—took offense, without any consideration of the First Amendment rights of other students.

75. At the conclusion of the course, students are required to “Review Iowa State University’s SaVE Act policy,” and to confirm:

By recording my acceptance below, I, [Student's Name], acknowledge that I have received training regarding Iowa State University's SaVE Act policy and I certify that I have read, understood and will comply with the SaVE Act policy.

A true and correct copy of this screen is attached to this Complaint as Exhibit 4.

76. Hyperlinked from this screen is the university's "SaVE Act policy," titled: "Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students." A true and correct copy of this policy is attached to this Complaint as Exhibit 5.

77. This policy is administered by the Dean of Students office.

78. The "Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students" policy expressly incorporates the definition of sexual harassment in the "Discrimination and Harassment" policy quoted above and in Exhibit 1.

79. When Dunn contacted the Office of Equal Opportunity concerning the effect of failure to certify compliance with the policies outlined in this Complaint and thus complete the online training, a university employee under the supervision and direction of Defendant Foreman informed Dunn that failure to complete the training could result in a "hold" on his graduation and the placement of his name on a list of students for "review" by Defendant Robinder.

80. Defendant Foreman, or someone acting on her direction and behalf, has sent multiple emails to Dunn repeating that the training is mandatory and reiterating that he must complete the training "as soon as possible." True and correct copies of these emails are attached as Exhibit 6.

81. Dunn has reviewed the slides for the training but cannot complete the course without certifying his understanding of and compliance with the policies complained of herein.

82. The policies are vague, overbroad, discriminatory, and violate the First and Fourteenth Amendments.

83. Dunn cannot certify understanding of these policies and refuses to certify that he will comply with policies that violate the First Amendment and would permit Defendants to punish him for constitutionally protected speech.

84. Dunn has therefore not completed and will not complete the verification required as part of the mandatory Title IX training.

ISU REITERATES ITS UNCONSTITUTIONAL POLICIES

85. On May 13, 2013, Alliance Defending Freedom sent a letter to Iowa State University General Counsel addressing policies complained of herein and offering to assist Iowa State in remedying their constitutional defects. When ISU did not respond to this letter, Alliance Defending Freedom sent a follow-up letter on May 25, 2014, reiterating its desire to assist ISU in correcting the constitutional flaws in these policies.

86. On August 1, 2014, ISU responded to this letter, stating that the new director of the Office of Equal Opportunity would be reviewing these policies and anticipating that this process would require one year to finalize.

87. The “Discrimination and Harassment” policy and the “Student Disciplinary Regulations” have both been updated by Defendants in 2016, but their constitutional infirmities were not addressed.

88. Dunn desires to grow his Young Americans for Freedom chapter at ISU, advocating for conservative beliefs on matters in controversy on campus.

89. The expression of these conservative beliefs on marriage, religious freedom, sexuality, gender, abortion, and other topics often draw strong opposition from ideological opponents on campus.

90. During the 2015-2016 and 2016-2017 academic years, ISU professors and administrators have informed Dunn that he should be especially careful advocating for conservative views on campus because, if others are offended, his speech may be deemed to violate university policies.

91. In anticipation of an on-campus speech by National Review writer David French in the fall of 2015, one professor told Dunn that ISU administrators informed faculty that expressing opposition to same-sex marriage could be construed as harassment under university policies.

92. In the spring of 2016, just as Dunn was organizing a YAF chapter, Defendant Stewart emailed Dunn and sought a meeting with him. Stewart told Dunn, "I know about YAF" and lectured him about expressing conservative beliefs on campus, discouraging him from offending other students.

93. In light of Defendant Stewart's meeting with Dunn, other YAF members expressed concern that participating in YAF events like "No Che Day" or the "9/11 Memorial Project" could be interpreted as offensive to other students and punished under university policies, threatening their future careers.

94. At least in part because of concern about the application of ISU speech code policies to YAF, the other members of YAF stopped participating in the group, leaving Dunn as the only active YAF member at ISU.

95. A professor informed Dunn's class at the beginning of the 2016 fall semester that ISU administrators encouraged students, staff, and faculty to report offensive student speech to a soon-to-be-formed Bias Response Team.

96. The ISU policies described herein chill student speech, interfering with Dunn's ability to speak, organize, and lead YAF members in publicly discussing or advocating their beliefs with

respect to important political, cultural, moral, and religious topics, including advocacy for religious freedom protections, the sanctity of life, human sexuality, discussions about the prevalence of sexual assault and harassment on campus and solutions to address it, and other topics that tend to inspire passionate disagreements.

97. Defendants' actions in promulgating and enforcing the policies complained of herein prevent Dunn from exercising his First Amendment rights, causing him to suffer irreparable injury.

98. Defendants' actions in promulgating and enforcing the policies complained of herein create an atmosphere that chills the speech of others not before this Court holding viewpoints like Dunn's.

99. Defendants' purported policies and actions in promulgating and enforcing the policies complained of herein do not serve any legitimate or compelling interest.

100. Defendants' actions and policies alleged herein would chill a person of ordinary firmness from engaging in speech on matters of controversy.

101. Defendants have deprived and are continuing to deprive Plaintiff of his rights under the United States Constitution.

102. Defendants sued in their individual capacities knew or should have known that the policies they were promulgating and enforcing were in violation of the constitutional rights of Plaintiff and other students.

103. Plaintiff has no adequate or speedy remedy at law to correct or redress the deprivation of his rights by Defendants.

FIRST CAUSE OF ACTION

Violation of Plaintiff's First Amendment Right to Freedom of Speech

42 U.S.C. § 1983

104. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–103 of this Complaint.

105. The First Amendment right of free speech extends to the campus of state universities, including Iowa State University.

106. The First Amendment's Free Speech clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, prohibits content and viewpoint discrimination in public forums on the campus of a public university.

107. The First Amendment requires that regulations that restrict student speech on a public university campus must bridle the discretion of administrators so as not to permit discrimination against student speech on the basis of its viewpoint or content.

108. Unbridled discretion to discriminate against speech based on its content or viewpoint violates the First Amendment regardless of whether that discretion has been exercised.

109. By promulgating and enforcing Section 1.0 and the identified portions of Section 3.4 of the Discrimination and Harassment policy, Section 4.2.8 of the Student Disciplinary Regulations, and the incorporation of the "Discrimination and Harassment" policy into ISU's definition of "sexual harassment" in its "Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students" policy, Defendants, acting under color of state law, are chilling the free expression of Plaintiff and other students.

110. By promulgating and enforcing the aforementioned policies, Defendants are exercising and causing to be exercised unbridled discretion to discriminate against speech based on its content or viewpoint in violation of the First Amendment to the United States Constitution.

111. The ISU speech policies complained of herein condition compliance with these policies on the subjective emotional experience of the listener or the speculation of Defendants as to a speaker's purpose, and limits constitutionally protected speech without providing objective guidelines by which Plaintiff and other students can guide their behavior or by which Defendants may objectively and precisely apply the policies.

112. Defendants expressly condition compliance with these policies and subject to potential punishment student speech based on the viewpoint-based judgment of others, including other students.

113. Through the promulgation and enforcement of the policies complained of herein, Defendants have failed to establish narrow, objective and definite standards governing student expression, creating a substantial risk that Defendants and their subordinates will engage in content and viewpoint discrimination against student speech.

114. The ISU speech policies complained of herein are vague and overbroad, chilling the exercise of student free speech rights and prohibiting protected expression.

115. The overbreadth of Defendants' policies chills the speech of students not before the Court who seek to engage in private expression on campus.

116. Defendants' policies and actions are neither reasonable nor valid time, place and manner restrictions on speech because they are not content or viewpoint neutral, are not narrowly tailored to serve any government interest, and do not leave open ample alternative channels of

communication.

117. Because of Defendants' policies and actions, Plaintiff and other students have suffered and will continue to suffer irreparable harm to the exercise of their First Amendment rights, and face additional harm of being denied the opportunity to graduate or other punishments or deprivations if he does not certify compliance with these unconstitutional policies.

118. Pursuant to 42 U.S.C. §§ 1983 and 1988, Dunn is entitled to a declaration that Section 1.0 and the identified portions of Section 3.4 of the "Discrimination and Harassment" policy, Section 4.2.8 of the Student Disciplinary Regulations, and the incorporation of the "Discrimination and Harassment" policy into ISU's definition of "sexual harassment" in its "Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students" policy, violate the First Amendment right to freedom of speech, an injunction against Defendants' enforcement of these policies to interfere with First Amendment protected speech or to sanction Plaintiff in any way for his refusal to certify compliance with these unconstitutional policies, and the reasonable costs of this lawsuit, including reasonable attorneys' fees.

SECOND CAUSE OF ACTION

Violation of Plaintiff's Fourteenth Amendment Right to Due Process of Law

42 U.S.C. § 1983

119. Plaintiff Dunn repeats and realleges each of the allegations contained in paragraphs 1-103 of this Complaint, as if set forth fully herein.

120. The Fourteenth Amendment to the United States Constitution guarantees Plaintiff Dunn the right to due process of law, and prohibits Defendants from promulgating and enforcing vague standards that allow for content and viewpoint discrimination in their handling of student

expression on campus.

121. The government, including Defendants, may not regulate speech based on policies that permit arbitrary, discriminatory and overzealous enforcement.

122. The government, including Defendants, may not regulate speech based on policies that cause persons of common intelligence to guess at their meaning and to differ as to their application.

123. Section 1.0 and the identified portions of Section 3.4 of the “Discrimination and Harassment” policy, Section 4.2.8 of the Student Disciplinary Regulations, and the incorporation of the “Discrimination and Harassment” policy into ISU’s definition of “sexual harassment” in its “Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students” policy, are vague and ambiguous and do not provide objective criteria to guide Defendants and other ISU officials in applying these policies to student expression.

124. Defendants violated the Fourteenth Amendment rights of Plaintiff and other students similarly situated by requiring them, as a condition of graduation and being subject to other punishments, to certify that they understand and will comply with these vague and ambiguous policies.

125. By permitting their own subjective views and those of other listeners, including students, to govern whether student speech is in violation of the policies complained of herein, Defendants’ promulgation and enforcement of these policies are unconstitutionally vague and violate Plaintiff’s right to due process of law under the Fourteenth Amendment.

126. Pursuant to 42 U.S.C. §§ 1983 and 1988, Dunn is entitled to a declaration that Section 1.0 and the identified portions of Section 3.4 of the “Discrimination and Harassment” policy, Section 4.2.8 of the Student Disciplinary Regulations, and the incorporation of the “Discrimination

and Harassment” policy into ISU’s definition of “sexual harassment” in its “Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students” policy, violate the Fourteenth Amendment right to due process of law, an injunction against Defendants’ enforcement of these policies to interfere with First Amendment protected speech or to sanction Plaintiff in any way for his refusal to certify compliance with these unconstitutional policies, and the reasonable costs of this lawsuit, including reasonable attorneys’ fees.

THIRD CAUSE OF ACTION

Violation of Plaintiffs’ First Amendment Right to Free Exercise of Religion

42 U.S.C. § 1983

127. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–103 of this Complaint, as if set forth fully herein.

128. The First Amendment’s Free Exercise Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, guarantees Plaintiff free exercise of religion.

129. Laws that burden the free exercise of religion must be neutral and generally applicable.

130. If they are not neutral and generally applicable, then laws that burden the free exercise of religion must be justified by a compelling state interest. Even if such laws are neutral and generally applicable, they must be reasonable.

131. Plaintiff seeks to exercise his sincerely held religious beliefs by discussing and advocating for his Christian faith and his Christian viewpoint on marriage, sexuality, abortion, and other issues in controversy.

132. Defendants’ promulgation and enforcement of each of the policies complained of herein

substantially burden Dunn's free exercise of religion by preventing and chilling him from sharing his religious views.

133. The Defendants' "Discriminatory Harassment" policy prohibits students from engaging in "unwelcome behavior" on the basis of an individual or group's religion and confirms that "[e]ngaging in First Amendment protected speech activities" may be deemed harassment "depending upon the circumstances."

134. This policy is neither neutral nor generally applicable because it punishes speech critical of another religious belief or deemed offensive to listeners because of their religious beliefs while not sanctioning other speech.

135. Defendants' promulgation and enforcement of each of the policies complained of herein is neither neutral nor generally applicable because they deny Plaintiff the ability to express his religious viewpoint, while not prohibiting others from discussing the same matters from a different religious viewpoint or from a nonreligious viewpoint.

136. Defendants' promulgation and enforcement of each of the policies complained of herein is not neutral nor generally applicable because they target some religious speech but not other religious speech or nonreligious speech and permit Defendants unbridled discretion to arbitrarily and discriminatorily decide what speech is permitted and what speech may be punished.

137. Defendants' promulgation and enforcement of each of the policies complained of herein is neither neutral nor generally applicable because they create a system of individualized assessments of student speech.

138. Defendants' promulgation and enforcement of each of the policies complained of herein fails strict scrutiny because they are not narrowly tailored to promote a compelling government

interest.

139. Defendants' promulgation and enforcement of each of the policies complained of herein is unreasonable and serves no legitimate government purpose.

140. Pursuant to 42 U.S.C. §§ 1983 and 1988, Dunn is entitled to a declaration that Section 1.0 and the identified portions of Section 3.4 of the "Discrimination and Harassment" policy, Section 4.2.8 of the Student Disciplinary Regulations, and the incorporation of the "Discrimination and Harassment" policy into ISU's definition of "sexual harassment" in its "Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students" policy violate the First Amendment right to the free exercise of religion, an injunction against Defendants' enforcement of these policies to interfere with First Amendment protected religious exercise or to sanction Plaintiff in any way for his refusal to certify compliance with these unconstitutional policies, and the reasonable costs of this lawsuit, including reasonable attorneys' fees.

FOURTH CAUSE OF ACTION

Violation of Plaintiffs' Fourteenth Amendment Right to the Equal Protection of the Law

42 U.S.C. § 1983

141. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–103 of this Complaint, as if set forth fully herein.

142. The Fourteenth Amendment to the United States Constitution guarantees Plaintiff the equal protection of the laws, prohibiting Defendants from treating Plaintiff differently than similarly situated students.

143. The government may not treat someone disparately as compared to similarly situated persons when such disparate treatment burdens a fundamental right, targets a suspect class, or has

no rational basis.

144. Plaintiff is similarly situated to other students at ISU who wish to speak on matters of importance to them, including on many of the same political, religious, and cultural issues of importance to Plaintiff.

145. The Defendants' "Discriminatory Harassment" policy prohibits students from engaging in "unwelcome behavior" on the basis of specific classifications, including religion, and confirms that "[e]ngaging in First Amendment protected speech activities" may be deemed harassment "depending upon the circumstances."

146. This policy singles out for potential punishment student speech critical of another religious belief or deemed offensive to listeners because of their religious beliefs while not sanctioning speech on other topics or from other viewpoints.

147. Defendants' promulgation and enforcement of each of the policies complained of herein discriminates against some religious speech but not other religious speech or nonreligious speech and permits Defendants unbridled discretion to arbitrarily and discriminatorily decide what speech is permitted and what speech may be punished.

148. Defendants have interpreted these policies to afford less protection to speech opposing same-sex marriage than to speech supporting same-sex marriage.

149. Defendants have interpreted these policies to permit greater scrutiny of student expression advocating conservative views as opposed to liberal or other views.

150. When government regulations, like the policies complained of herein, infringe on fundamental rights, discriminatory intent is presumed.

151. Defendants' promulgation and enforcement of the policies complained of herein violate

various fundamental rights of Plaintiff, including freedom of speech, free exercise of religion, and due process of law.

152. Defendants have no rational or compelling government interest for their disparate treatment of student speech.

153. The policies complained of herein are not narrowly tailored to any government interest.

154. The policies complained of herein discriminate against Plaintiff's speech and permit Defendants' discretion to discriminate against Plaintiff's speech in violation of Plaintiff's right to the equal protection of the laws.

155. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Section 1.0 and the identified portions of Section 3.4 of the "Discrimination and Harassment" policy, Section 4.2.8 of the Student Disciplinary Regulations, and the incorporation of the "Discrimination and Harassment" policy into ISU's definition of "sexual harassment" in its "Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students" policy, violate the Fourteenth Amendment right to the equal protection of the laws, an injunction against Defendants' enforcement of these policies to interfere with the Fourteenth Amendment right to the equal protection of the laws or to sanction Plaintiff in any way for his refusal to certify compliance with these unconstitutional policies, and the reasonable costs of this lawsuit, including reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Robert Dunn respectfully requests the following relief:

- A. A preliminary and permanent injunction against Defendants, their agents, servants, employees, officials, or any other person acting in concert with them or on their behalf,

- invalidating and restraining them from enforcing Section 1.0 and the identified portions of Section 3.4 of the “Discrimination and Harassment” policy, Section 4.2.8 of the Student Disciplinary Regulations, and the “Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students” policy’s incorporation of the “Discrimination and Harassment” policy’s definition of “sexual harassment,” in any way to violate the First Amendment rights of Plaintiff or to sanction Plaintiff for his refusal to certify understanding of and compliance with these policies.
- B. A declaration that Section 1.0 and the identified portions of Section 3.4 of the “Discrimination and Harassment” policy, Section 4.2.8 of the Student Disciplinary Regulations, and the “Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students” policy’s incorporation of the “Discrimination and Harassment” policy’s definition of “sexual harassment,” violates the First and Fourteenth Amendments.
- C. Nominal damages against all Defendants sued in their individual capacities for their violation of Plaintiff’s First and Fourteenth Amendment rights through the promulgation and enforcement of Section 1.0 and the identified portions of Section 3.4 of the “Discrimination and Harassment” policy, Section 4.2.8 of the Student Disciplinary Regulations, and the “Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students” policy’s incorporation of the “Discrimination and Harassment” policy’s definition of “sexual harassment,” and through their enforcement of a requirement that Plaintiff Dunn certify understanding and compliance with these policies or face sanctions.

D. A declaration that Plaintiff is entitled to reasonable costs and expenses of this action, including attorneys' fees, in accordance with 42 U.S.C. § 1988; and

E. All other and further relief as this Court deems just and proper.

Respectfully submitted this 17th day of October, 2016.

/s/ Timm W. Reid
Timm W. Reid
300 Walnut Street, Suite 5
Des Moines, Iowa 50309
(800) 217-8312 (phone)
(800) 282-0318 (fax)
TReid@galliganlaw.com

M. Casey Mattox*
Alliance Defending Freedom
440 First Street, NW, Suite 600
Washington, DC 20001
(202) 393-8690 (phone)
(202) 347-3622 (fax)
cmattox@ADFlegal.org

Travis C. Barham*
Alliance Defending Freedom
1000 Hurricane Shoals Road
N.E., Suite D-1100
Lawrenceville, GA 30043
(770) 339-0774 (phone)
(770) 339-6744 (fax)
tbarham@ADFlegal.org

**Pro hac vice* application to follow

Attorneys for Plaintiff

**VERIFICATION OF VERIFIED COMPLAINT
PURSUANT TO 28 U.S.C. § 1746**

I, Robert Dunn, a citizen of the United States and a resident of the State of Iowa, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed on October ^{31 RD}~~30~~, 2016.



Robert Dunn

Exhibit 1



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Discrimination and Harassment

Effective: May 1, 2006

Updated/Revised: April 25, 2016

Contact: [Office of Equal Opportunity \(OEO\)](#)

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Introduction

Respect is the foundation for interchange of ideas, for learning and for working toward common goals. Consequently, Iowa State University is committed to assuring that its programs are free from prohibited discrimination and harassment based upon race, ethnicity, sex, pregnancy, color, religion, national origin, physical or mental disability, age (40 and over), 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.

Discrimination and harassment impede the realization of the university's mission of distinction in education, scholarship, and service, and diminish the whole community.

Iowa State University reaffirms and emphasizes its commitment to provide a professional working and learning environment that is fair and responsible; that supports, nurtures, and rewards educational and employment growth on the basis of relevant factors such as ability and performance; and that is free of discriminatory, inappropriate, and disrespectful conduct or communication.

For these reasons, the university will not tolerate discrimination or harassment, as defined below, and is committed to preventing it or stopping it whenever it may occur at the university or in its programs. The policy presented here applies to employees, students, visitors, applicants, or program participants at Iowa State University. Students, however, should see the policy on *Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students* for specific information regarding their unique rights and responsibilities, including resources and complaint resolution (see [Resources](#) below).

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Policy Statement

1. Discrimination and Harassment Defined

Iowa State University prohibits discrimination, which can include disparate treatment directed toward an individual or group of individuals based on race, ethnicity, sex, pregnancy, color, religion, national origin, physical or mental disability, age (40 and over), marital status, sexual orientation, gender identity, genetic information, status as a U.S. Veteran (disabled, Vietnam, or other), or other protected class, that adversely affects their employment or education. For religion or disability, the law allows employees and students to request reasonable accommodations to continue their work or studies.

Iowa State University also prohibits harassment, which can be a form of discrimination if it is unwelcome and is sufficiently severe or pervasive and objectively offensive so as to substantially interfere with a person's work or education. Harassment may include, but is not limited to, threats, physical contact or violence, pranks, jokes, bullying, epithets, derogatory comments, vandalism, or verbal, graphic, or written conduct directed at an individual or individuals because of their race, ethnicity, sex, pregnancy, color, religion, national origin, physical or mental disability, age, marital status, sexual orientation, gender identity, genetic information, or U.S. veteran status. Even if actions are not directed at specific persons, a hostile environment may be created when the conduct is sufficiently severe or pervasive and objectively offensive so as to substantially interfere with or limit the ability of an individual to work, study, or otherwise to participate in activities of the university.

It is the university's goal to prevent the occurrence of discriminatory and harassing activity and to promptly stop such conduct. While grounded in state and federal non-discrimination laws, this policy may cover those activities which, although not severe, persistent, or pervasive enough to meet the legal definition of harassment, are unacceptable and not tolerated in an educational or work environment. This policy will be interpreted so as to avoid infringement upon first amendment rights of free speech. The university must be mindful of the tradition of academic freedom that includes the free exchange of ideas inherent in an academic community. A determination as to whether discrimination or harassment has occurred will be based upon the context in which the alleged conduct occurs. For further discussion, see Section 3.4.

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1.1. Sexual Harassment

Sexual harassment, in its legal definition, includes unwelcome sexual advances, requests to engage in sexual

conduct, and other physical and expressive behavior of a sexual nature where (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; (2) submission to or rejection of such conduct by an individual is used, or threatened or suggested to be used, as the basis for academic or employment decisions affecting the individual; or (3) such conduct substantially interferes with an individual's academic or professional performance or creating an intimidating, hostile, or demeaning employment or academic environment. Determination as to whether the alleged conduct constitutes sexual harassment should take into consideration the totality of the circumstances, including the context in which the alleged incidents occurred.

Under this policy, sexual harassment can be verbal, visual, or physical. It can be overt, as in the suggestion that a person could get a higher grade or a raise in salary by submitting to sexual advances. The suggestion or the advance need not be direct or explicit--it can be implied from the conduct, circumstances, and relationships of the persons involved. Sexual harassment can also consist of persistent, unwelcome attempts to change a professional or academic relationship to a personal one. It can range from unwelcome sexual flirtations and inappropriate put-downs of individual persons or classes of people to serious physical abuses such as sexual assault. Examples could include, but are not limited to, unwelcome sexual advances; repeated and unwelcome sexually-oriented bullying, teasing, joking, or flirting; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; derogatory or demeaning comments about women or men in general, whether sexual or not; leering, touching, pinching, or brushing against another's body; or displaying objects or pictures, including electronic images, which are sexual in nature and which create a hostile or offensive work, education, or living environment.

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1.1.1. Consensual Relationships

Sexual, romantic, or intimate relationships between persons in an unequal power relationship that appear to be voluntary and welcome may nonetheless constitute sexual harassment under this definition. Relationships between faculty and subordinate faculty or staff, between a supervisor and those employees whom he or she supervises, or between a faculty member or teaching assistant and his or her student may give rise to legal and ethical concerns or to conflict between personal and professional interests. Although such a relationship may be viewed by the parties involved as consensual, that fact alone does not mean that no sexual harassment exists.

In addition, such relationships can result in discrimination or harassment where (1) third parties are adversely affected in academic or employment matters because of a consensual relationship between others; (2) where a consensual relationship creates a hostile and intimidating work or learning environment for third parties; or (3) when a consensual relationship ends, and one of the parties continues behavior which the other party has made clear is now unwelcome.

Supervisors, instructors, or mentors involved in such relationships have the obligation to remove themselves from the supervisory or mentoring relationship (see faculty handbook, §7.2.2.1.1.).

1.2. Racial and Ethnic Harassment

Harassment that is directed at a person or group of persons because of race, color, ethnicity, or national origin is covered under this policy. Even if actions are not directed at specific persons, a hostile environment can be created when the conduct is sufficiently severe or pervasive and objectively offensive so as to substantially interfere with the person's work, education, or activities on campus.

1.3. Harassment Based on Religion, Disability, Pregnancy, Age, Marital Status, Sexual Orientation, U.S. Veteran Status, or Other Protected Status

Harassment that is directed at a person or group of persons because of any characteristic protected by this policy or local, state or federal law is also covered under this policy.

1.4. Retaliation

Retaliation against an individual for making a complaint of discrimination or harassment, for resisting discrimination or harassment, or for otherwise using or participating in the informal or formal complaint resolution process, is a violation of university policy, and any such action is itself cause for disciplinary action.

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2. Complaint Resolution

In an effort to prevent or stop discriminatory or harassing behavior, the university has adopted specific avenues through which an individual can make his or her complaint known. With issues of discrimination and harassment, it is important to identify and remedy the situation as soon as possible. For this reason, the university has adopted two complaint resolution mechanisms that employees may use to raise discrimination and harassment concerns - informal and formal resolution. Claims of discrimination and harassment must be brought either as an informal complaint or a formal complaint to ensure that appropriate action can be taken right away. An informal complaint may, but need not be made before filing a formal complaint; however, once a formal complaint has reached resolution, the same complaint cannot be brought as an informal complaint.

Complaints by or against students, on the other hand, are handled differently. All complaints of discrimination or harassment by or against a student should be brought to the dean of students office. The policy on *Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students* (see Resources below) contains information on support services for students during any complaint resolution process.

To best remedy a situation, complainants are urged to promptly share concerns or complaints rather than risking their well being or negatively affecting the university's ability to investigate their case due to the passage of time and potential departure of witnesses. If a formal complaint contains incomplete information, the office of equal opportunity (OEO) will promptly seek to gather the needed information from the complainant. In the event that such information is not furnished to the OEO within 30 days from the date of the request, the case may be closed. Consistent with federal regulations governing the filing of complaints, the OEO may decline to investigate claims in which none of the alleged discrimination or harassing action occurred within the preceding 300 days.

Any employee, student, visitor, applicant, or program participant of Iowa State University may file a complaint alleging discrimination or harassment in violation of the university's policy prohibiting such conduct. In most cases, complaints against affiliates or contractors of Iowa State University must first proceed through the affiliate or contractor before Iowa State University may intervene. Information about the university's policy and resolution procedures may be found in several offices, including the dean of students office, the student counseling service, the women's center, the senior vice president and provost, the employee assistance program, and the OEO. As described below, the university has designated and trained certain individuals, called discrimination and harassment assistors, to assist a potentially injured person in deciding if and how to proceed and in carrying out that decision.

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2.1. Informal Resolution

Iowa State University has adopted an informal process through which non-student harassment and discrimination complaints may be resolved promptly and discreetly, often through communication, education, and/or mutual agreement. If informal resolution fails to resolve the matter to the complainant's satisfaction, the complainant may file a formal complaint with, or seek the assistance of the university's office of equal opportunity (OEO). The implementation of this informal process is the responsibility of all central administrators, deans, directors, department chairs, supervisors, and managers - hereinafter referred to collectively as "supervisors" for purposes of this policy.

Under the informal process, the complainant must bring the complaint, either verbally or in writing, to a supervisor with authority over the person against whom the complaint is directed. Because it is often more efficient to resolve matters locally, bringing the informal complaint to a supervisor with immediate authority over the person is useful, but not required. If a complainant is not comfortable speaking with a supervisor, informal complaints may also be raised with the OEO. To ensure responsiveness and consistent application of this policy, the supervisor must notify the OEO when he or she receives an informal complaint. If the allegations reveal conduct of a severe or repetitive nature, the supervisor or the OEO may deem a formal investigation under section 2.2 to be warranted. The supervisor is expected to review the complaint and explore avenues for resolution with the complainant. With the complainant's consent, the supervisor may contact the accused person.

Because the OEO can provide assistance through this process, the supervisor is encouraged to consult with the OEO regarding alternatives for resolution. Options for informal resolution may include advising the complainant about methods to resolve the concern, arranging educational programs for individuals or departments, helping modify a work or study situation, mediating between the parties, or intervening or arranging for a third party to intervene. The informal process is not a formal investigation. A supervisor shall not impose discipline against an accused person as a result of the informal process without first consulting with the OEO, or in the case of a complaint against a faculty member, the office of the senior vice president and provost (SVPP).

Supervisors should attempt to resolve complaints expeditiously, but consistent with the severity or complexity of the matter. As a guideline, supervisors should attempt to complete the informal resolution process within three weeks after receipt of the complaint. To ensure responsiveness and consistent application of this policy, the supervisor must notify the OEO as to the resolution of the complaint.

In cases of complaints against members of the faculty, the faculty conduct policy provides for mediation by a third party to resolve the complaint when all parties agree. For more information, see the faculty handbook, faculty conduct policy, mediated process (§7.2.4).

For purposes of annual reporting, the supervisor shall maintain a written record of the complaint and of the informal resolution process undertaken, taking care to preserve the privacy rights of both the complainant and the alleged offender.

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2.2. Formal Resolution

A person who wishes to file a formal complaint must do so in writing as described below. Students should see the policy on *Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students* (see Resources below)

2.2.1. Complaints Against Faculty Members

When a person chooses to file a formal complaint against a member of the faculty, he or she may file the written complaint with either the SVPP office or the OEO (see details in 2.2.2. below). In cases where the complainant files a complaint with the OEO, that office will notify the SVPP of the complaint within one business day and coordinate with the faculty review board, as required by the faculty conduct policy. The faculty review board will conduct its own investigation or work in conjunction with an investigator and make recommendations to the SVPP.

2.2.2. Complaints Against Others

A person who believes that she or he has been subjected to harassment or discrimination may file a formal complaint with the university's office of equal opportunity (OEO). A formal complaint with the OEO involves completing an intake form and submitting a written, signed statement describing the incident or incidents as completely as possible. Specific guidelines for the submission of a complaint may be obtained from the OEO, and the

complainant may visit with a staff member of that office prior to filing a formal complaint.

Once a complaint is filed with the office of equal opportunity, it will be assessed and, if an investigation is warranted, the case will be assigned for investigation to a staff member or designee. A complaint against the president will be referred to the board of regents for investigation and disposition. The person against whom the complaint is filed will be notified. Each investigation will necessarily be different depending on the facts, circumstances, and witnesses. Generally, an investigation will include interviews with the complainant or complainants, with the person against whom the complaint has been brought, and with anyone else who might have information that would be helpful. Based on this investigation, the office of equal opportunity and/or designated investigator will meet with the supervisor of the accused person to share findings and discuss appropriate action to resolve the complaint.

The supervisor to whom the office of equal opportunity reported must notify that office as to whether he or she accepts the findings as well as what action, if any, has been or will be taken. If the unit administrator does not accept the findings of the office of equal opportunity, then the office of equal opportunity shall submit a written summary of the findings and recommendation to the appropriate vice president or SVPP, who shall in turn take whatever action he or she believes to be necessary to remedy the situation. Any disciplinary action shall be handled under the appropriate employee handbook.

The investigation by the office of equal opportunity or designated investigator will be conducted expeditiously, but in a manner consistent with the complexity and severity of the matter and availability of witnesses. The office of equal opportunity will attempt to complete its investigation and recommendation within forty-five days of initiation of the formal complaint if possible.

The office of equal opportunity shall notify the complainant in writing of the result of the investigation. Any subsequent complaints or appeals external to the university shall be at the discretion of the complainant in accordance with the rules and timelines of the entity receiving the complaint or appeal (e.g., board of regents, Iowa civil rights commission).

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2.3. Office of Equal Opportunity Information Advisors

Because sexual harassment can be difficult to identify and understand, the university has designated persons on campus as information advisors to help anyone who believes she or he may have been subjected to discrimination and harassment including sexual harassment or who wishes to make an inquiry. Office of equal opportunity (OEO) information advisors are members of the university community who have received extensive discrimination and harassment training to act as information advisors on topics pertaining to discrimination and harassment, have general knowledge about applicable laws, university policies and procedures, options available for resolution of complaints, confidentiality requirements, act as educators and trainers, and assist students, faculty, and staff with concerns about discrimination and harassment. OEO information advisors are designated by the president, provost, senior vice presidents, deans, and/or other University administrators to serve as OEO information advisors representing their respective areas. Information advisors are a resource for information but are not responsible for investigating or resolving complaints. A list of designated discrimination and harassment assistants are available from the office of equal opportunity.

2.4. Other Internal Grievances

Students and employees may have concerns or complaints about their academic or work settings that may not directly involve discrimination or harassment (e.g., grades, office assignment). As described below, the university has established internal grievance procedures to address concerns other than discrimination and harassment.

For Students

- Academic matters. Complaints related to academic matters may be filed in accordance with the policy on appeal of academic grievances found in the university catalog (see Resources below). Such complaints should be brought to the attention of the instructor or the department chair.
- Complaints against students. Complaints regarding misconduct by a student may be directed to the office of student conduct (OSC) in accordance with the student conduct code, published in the student disciplinary regulations.
- Student employee grievances. Undergraduate student-employees may bring a grievance in accordance with the policy on undergraduate student-employee grievances (see Resources below).
- Student accommodation process. Students with disabilities who have concerns as to academic accommodations may also proceed informally by notifying disability resources.

For Faculty and Staff

- Merit staff grievances. Complaints regarding terms of employment or working conditions may be brought by merit staff in accordance with the grievance appeal procedure for the merit system.
- Faculty and P&S grievances. Grievances of faculty and P&S employees may be brought in accordance with the provisions of the applicable employee handbook.

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2.5. Title IX Coordinator

The university has designated Margo Foreman, director of equal opportunity, as the [Title IX coordinator](#) to handle inquiries regarding non-discrimination and harassment policies and complaints. Questions or concerns may be directed to the office of equal opportunity at 515-294-7612, mrforema@iastate.edu, or in person at 3350 Beardshear Hall, Ames, IA 50011.

Deputy Title IX coordinators are:

- Dawn Bratsch-Prince, associate provost, 515-294-6410
- Sara Kellogg, dean of students office, 515-294-1023
- Calli Sanders, athletics department, 515-294-3706

3. Enforcement

3.1. Responsibilities of the University, Administrators, and Supervisors

Iowa State University--including its officers and its employees--is committed to maintaining a working and learning environment free from discrimination and harassment. The administration will make widely known that discrimination and harassment are prohibited both legally and by this policy, and that appropriate procedures for dealing with allegations of discrimination or harassment are available. Students, staff, faculty, and administrators should know that the university is concerned about such behavior and is prepared to take preventive and corrective action.

University administrators and supervisors who do not respond to discrimination or harassment complaints brought to their attention are in violation of this policy. This policy identifies what an administrator/supervisor should do in the event he or she learns of a discrimination or harassment complaint. In addition, administrators and supervisors are strongly encouraged to seek assistance in the event they feel unequipped to address such a concern by contacting the office of equal opportunity.

3.2. Confidentiality

Persons seeking general information or guidance about harassment or discrimination may be concerned about whether the information they share with another person will be confidential. While the university is eager to create a safe environment in which individuals can be unafraid to discuss concerns and make complaints, legal obligations may require the university to take some action once it is informed that harassment or discrimination may be occurring. Because of their positions of authority, certain university personnel--i.e., central administrators, deans, directors, department chairs, supervisors, and managers--are particularly obligated to take action when they receive a complaint of harassment or discrimination. Although the confidentiality of the information received and the privacy of the individuals involved cannot be guaranteed, they will be protected to as great an extent as is legally possible. The expressed wishes of the complainant regarding confidentiality will be considered in the context of the university's legal obligation to act upon the charge and the right of the charged party to be informed concerning the charge.

3.3. Sanctions

Employees found to have engaged in discrimination or harassment in violation of this policy are subject to appropriate discipline up to and including termination of employment. Students found to have engaged in discrimination or harassment in violation of this policy are subject to appropriate discipline up to and including dismissal. In cases where complaints are found to be baseless or frivolous, and where the accused individual consents, the university will take affirmative steps to restore the reputation of a person believed to be wrongly accused. Appropriateness of such action shall be based upon the nature of the investigation, the findings, and the reputational damage which may have occurred.

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3.4. Academic Freedom and Freedom of Speech

Enforcement of this policy must respect the principles of academic freedom and the right of free speech. Therefore, in evaluating whether speech has become harassment, the following factors will be considered:

- The tone of voice, gestures and behavior of the speaker;
- Whether there is conduct or speech which indicates a discriminatory purpose or a constructive purpose;
- Whether the speech is made in a context where the recipient is in a position to avoid the speaker;
- Whether the speech is germane to an academic exercise and recognized by peers as a legitimate topic or way of presenting academic material;
- Whether the speech is made in a public forum on a matter of public concern, or otherwise in a context in which free debate is encouraged;
- Whether the speech is directed toward specific individuals or a specific group of individuals;
- The degree to which the expression was necessary to the discussion of the subject matter;
- Whether the speech is so severe as to amount to a crime under Iowa law; and
- Whether the speaker did or could anticipate that the speech would intimidate or interfere with an individual's ability to continue to participate in university activities.

When investigating conduct which includes scholarly discourse, the office of equal opportunity will be cognizant of the provisions of the faculty handbook on scholarly discourse and germaneness.

3.5. Direct Institutional Action

Even in the absence of a complaint, if university administrators, including the president, the SVPP, senior vice presidents, vice presidents, deans, department chairs, or directors, become aware of allegations of discrimination or harassment, they should inquire into, or seek assistance in inquiring into, allegations or behaviors that may be discriminatory or harassing in order to determine what action(s) are warranted. Appropriate procedures may include initiating an investigation. Supervisors needing assistance should consult with the office of equal opportunity.

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4. External Actions

In addition to the university's channels, a person who believes that she or he has been subjected to discrimination or harassment may file a charge under the various jurisdictions of the Iowa civil rights commission, the equal employment opportunity commission, or the U.S. office of civil rights. Information on filing charges with any of these agencies, including deadlines for doing so, may be obtained from each agency's website. (see links on the office of equal opportunity website)

Resources

Links

- [Discrimination and Harassment website](#)
- [Religious Accommodation Statement](#)
- [Student Disability Resources - Accommodations](#)
- [Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students](#)
- [Student Disciplinary Regulations 4.2.5 - Sexual Misconduct, Sexual Assault and Sexual Harassment](#)
- [Student Disciplinary Regulations 4.2.7 - Harassment and Discriminatory Harassment](#)
- [Student Disciplinary Regulations 4.2.9 - Disruption of Rights](#)
- [Conduct Policy - Faculty \(FHB 7\)](#)
- [University Catalog - Appeal of Academic Grievances](#)
- [Grievance Procedures, Faculty \(FHB 9\)](#)
- [Grievance Management, Non-Faculty](#)
- [Grievance Policy, Undergraduate Student-Employees](#)
- [Non-Retaliation Policy](#)
- [Dean of Students Office](#)
- [Student Counseling Service](#)
- [Office of Equal Opportunity](#)
- [Office of Equal Opportunity Information Advisors](#)
- [Employee and Family Resources; Employee Assistance Program](#)
- [University Human Resources \[UHR\]](#)
- [Women's Center](#)
- [AFSCME Contract and Other Merit Information](#)
- [Discrimination and Harassment \[Policy in PDF with line numbers\]](#)

Exhibit 2

(*The July 29, 2016, update replaced gender-specific language.)

1 Student Disciplinary Regulations (Code of Conduct)

2 Effective: August 21, 2000

3 Revised: June 4, 2015; Updated: July 29, 2016* (*To see the prior version of this policy, click [here](#).*)

4 Contact: [Dean of Students Office - Division of Student Affairs](#)

5 Contents

6 [1. Statement of Philosophy](#)

7 [2. Rights and Responsibilities](#)

8 [3. Offices and Their Functions](#)

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16

17 1. Statement of Philosophy

18 Iowa State University is an institution that encourages the intellectual and personal growth of its students
19 as scholars and citizens. As an educational institution, the university recognizes that the transmission of
20 knowledge, the pursuit of truth, and the development of individuals require the free exchange of ideas, self-
21 expression, and the challenging of beliefs and customs.

22 In order to maintain an environment where these goals can be achieved safely and equitably, the university
23 promotes civility, respect and integrity among all members of the community. The university strives to
24 guide the educational community by establishing the Student Disciplinary Regulations including a Student
25 Conduct Code and student judicial system that promotes individual and social responsibility. Choosing to
26 join the Iowa State University community obligates each member to a code of civilized behavior.

27 Individuals, student organizations and campus organizations are expected to observe the policies, rules,
28 and regulations of Iowa State University, the City of Ames, the State of Iowa, and the United States of
29 America. University policies have been designed to protect individuals and the campus community and
30 create an environment conducive to achieving the academic mission of the institution.

31 The purposes of the Student Disciplinary Regulations are to set forth the specific authority and
32 responsibility of the university in maintaining social discipline, to establish guidelines that facilitate a just
33 and civil campus community, and to outline the educational process for determining student and
34 student/campus organization responsibility for alleged violations of university regulations. This judicial
35 process will follow established procedures for ensuring fundamental fairness and an educational
36 experience that facilitates the development of the individual and of the student/campus organization.

37

38

(*The July 29, 2016, update replaced gender-specific language.)

39 **2. Rights and Responsibilities**

40 Students have certain rights as members of the university community in addition to those constitutional and
41 statutory rights and privileges inherent from the State of Iowa and the United States of America, and
42 nothing in this document shall be construed so as to limit or abridge students' constitutional rights.
43 Students have the responsibility not to deny these rights to the other members of the university community.
44 Student rights and responsibilities at Iowa State University are listed and explained here.

- 45 [2.1 Student Rights and Responsibilities](#)
46 [2.2 Complainant Rights and Responsibilities](#)
47 [2.3 Rights and Responsibilities of Witnesses and Other Persons Reporting Violations](#)

48

49 **2.1 Student Rights and Responsibilities**

- 50 A. All Iowa State University students have the right to:
- 51 1. Have access to academic and non-academic university policies.
- 52 2. Express themselves through academic work within the guidelines of the university rules and
53 regulations. The right to expression does not affect the responsibility of the university and its
54 faculty to evaluate based upon genuine academic criteria such as relevance, coherence,
55 creativity and quality of academic work.
- 56 3. Participate in university-sponsored activities and services without threat of harassment or
57 discrimination.
- 58 4. Join any organization without fear of charges being brought solely on the basis of membership.
- 59 5. Expect that the university will not create and keep records that reflect beliefs, political activity,
60 and associations except for information provided by students. The university may maintain
61 counseling, health, law enforcement and disciplinary records which can be released only by
62 expressed consent, a court order or as otherwise permitted by law.
- 63 6. Petition for change in academic or non-academic regulations, procedures, or practices.
- 64 7. Be protected from ex post facto (after the fact) regulations. An ex post facto rule is a rule created
65 after an act has occurred, in order to be applied to the prior act.
- 66 8. Due process in the student judicial process, as required by law and as described in section 5,
67 below.
- 68 9. Be informed of and comment during the process of formulating non-academic regulations,
69 procedures, or practices of the university.
- 70 B. Subject to the rights indicated above, students and registered student/campus organizations have
71 the responsibility to:
- 72 1. Respect the personal and property rights of the university community and all its members.
- 73 2. Represent themselves and their organizations truthfully and accurately in their interaction with
74 official university functions.
- 75 3. Accept the consequences of their actions.

76

77

(*The July 29, 2016, update replaced gender-specific language.)

78 **2. 2 Complainant Rights and Responsibilities**

- 79 A. Complainants are persons who were the target of, or were affected by, the misconduct of the
80 accused student or student/campus organization. In addition to the rights of all students contained in
81 section 2.1, complainants have the following rights:
- 82 1. Complainants shall be provided information concerning counseling, mental health or medical
83 services available on campus and in the community.
 - 84 2. Complainants have the right to decide whether or not to notify law enforcement authorities
85 and/or to file a report of misconduct with the Office of Student Conduct (OSC).
 - 86 3. To be informed about the status of the disciplinary case pending in the OSC.
 - 87 4. Complainants may make a statement of how the alleged conduct has affected them at the time
88 of any disciplinary hearing. If the complainant is a member of the university community at the
89 time of a request for reinstatement by a student who committed a violation against the
90 complainant, the complainant has a right to provide a statement for or against reinstatement.
 - 91 5. Complainants may make a statement of their opinion as to an appropriate sanction if a student
92 or student/campus organization is found responsible for misconduct.
 - 93 6. To know the final result of the case. The final results include the name of the accused student,
94 whether the accused student was found responsible or not and any sanction that was imposed.
 - 95 7. Complainants have the right to participate in the student judicial process as required by law and
96 as described in section 5, below.
 - 97 8. Complainants have the right to be free of any form of retaliation or harassment due to reporting
98 misconduct on the part of another student.
 - 99 9. Complainants reporting domestic violence, dating violence, sexual assault and stalking also
100 have the rights provided by law and the university's written *Explanation of Rights* for persons
101 reporting such acts.
- 102 B. In addition to the responsibilities of all students contained in section 2.1, complainants have the
103 responsibility to cooperate in providing accurate information regarding the alleged conduct, including
104 providing documents and physical evidence if requested.

105

106 **2.3 Rights and Responsibilities of Witnesses and Other Persons Reporting Violations**

- 107 A. In addition to the rights of all students contained in section 2.1, witnesses and other persons who
108 report violations of these Student Disciplinary Regulations have the following rights:
- 109 1. Witnesses and other persons who obtain evidence of misconduct may report it to the OSC.
 - 110 2. Witnesses and other persons who report violations have the right to be free of any form of
111 retaliation or harassment due to reporting misconduct on the part of another student.
- 112 B. In addition to the responsibilities of all students contained in section 2.1, witnesses and other
113 persons who are students and report violations of these Student Disciplinary Regulations have the
114 responsibility to cooperate in providing accurate information regarding the alleged misconduct,
115 including providing documents and physical evidence if requested.

116

117

(*The July 29, 2016, update replaced gender-specific language.)

118 **3. Offices and Their Functions**

- 119 [3.1 Board of Regents, State of Iowa](#)
- 120 [3.2 President](#)
- 121 [3.3 Senior Vice President for Student Affairs](#)
- 122 [3.4 Dean of Students](#)
- 123 [3.5 Office of Student Conduct \(OSC\)](#)
- 124 [3.6 Office of Student Conduct \(OSC\) Administrator](#)
- 125 [3.7 Office of Equal Opportunity and Title IX Coordinator](#)
- 126 [3.8 Residence Student Conduct \(RSC\) Coordinator](#)
- 127 [3.9 Residence Area Directors](#)
- 128 [3.10 Student Conduct Hearing Board \(SCHB\)](#)
- 129 [3.11 Greek Judicial Representatives](#)
- 130 [3.12 Administrative Hearing Officers](#)
- 131 [3.13 Administrative Law Judges](#)
- 132 [3.14 Other Judicial Bodies at ISU](#)
- 133 [3.15 Student Government Supreme Court](#)
- 134 [3.16 Sports Club Council](#)

135

136 **3.1 Board of Regents, State of Iowa**

137 The Board of Regents, State of Iowa, governs the Regent universities, including Iowa State University.
 138 Persons who have exhausted their appeal rights within Iowa State University may appeal to the Board of
 139 Regents. Regent policies and rules govern such appeals.

140

141 **3.2 President**

142 The Board of Regents has delegated to the President of Iowa State University general authority over the
 143 university. Responsibility for student conduct has been delegated to the Senior Vice President for Student
 144 Affairs, subject to the discretionary authority of the President to review a case once the Senior Vice
 145 President for Student Affairs or Dean of Students has made a decision. Students and student/campus
 146 organizations may seek discretionary review by the President prior to appealing to the Board of Regents.

147

148 **3.3 Senior Vice President for Student Affairs**

149 The Senior Vice President for Student Affairs is the chief officer responsible for the university Student
 150 Disciplinary Regulations. The Senior Vice President hears appeals of Student Conduct Hearing Board
 151 (SCHB) recommendations once the Dean of Students has made a determination. See section 6, Appeals.
 152 The Senior Vice President's action is final, subject only to discretionary review by the President or an
 153 appeal to the Board of Regents.

154

155 **3.4 Dean of Students**

156 The Dean of Students oversees the operation of the OSC and the various hearing bodies. The Dean of
 157 Students receives recommendations from the SCHB. The Dean of Students also hears appeals of all
 158 administrative hearings. See section 6, Appeals. The Dean of Students' action on an appeal is final,
 159 subject only to discretionary review by the President or an appeal to the Board of Regents.

160 The Dean of Students notifies students and student/campus organizations of the outcome of SCHB cases
 161 and appeals from administrative hearings.

(*The July 29, 2016, update replaced gender-specific language.)

162

163 **3.5 Office of Student Conduct (OSC)**

164 The staff of the OSC is responsible for:

- 165 A. Receiving reports of misconduct.
- 166 B. Investigating allegations of misconduct, or assigning a case to another unit for investigation.
- 167 C. Determining whether a matter warrants a hearing.
- 168 D. Referring cases to the proper hearing board, or in the cases of Level 2 violations, holding
- 169 administrative hearings. See section 5.8.
- 170 E. Issuing notices of hearing.
- 171 F. Maintaining records regarding disciplinary actions.
- 172 G. Informing complainants of the outcome of the disciplinary process.
- 173 H. Training the members of each of the various conduct boards and administrators of the Student
- 174 Disciplinary Regulations.

175

176 **3.6 Office of Student Conduct (OSC) Administrator**

177 The OSC Administrator oversees the activities of the OSC and coordinates with the Residence Student
178 Conduct (RSC) Coordinator, the Greek Judicial representatives, the Office of Equal Opportunity and the
179 various hearing bodies.

180 The OSC Administrator reviews all reports to assure that they are properly assigned for investigation. The
181 OSC Administrator has the authority to assume responsibility for any case. After investigation, if it is
182 determined that the case should go to a hearing, the OSC determines the proper hearing body to hear the
183 matter. The OSC Administrator is responsible for maintaining all records of disciplinary matters that are
184 created during the process outlined in the university Student Disciplinary Regulations.

185

186 **3.7 Office of Equal Opportunity and Title IX Coordinator**

187 The university has designated the Director of the Office of Equal Opportunity to handle inquiries regarding
188 non-discrimination and harassment policies. The Director is also the Title IX Coordinator for the university
189 and is charged with the responsibility to complete internal investigations involving violations of the
190 university policies regarding Sexual Misconduct, Sexual Assault, and Sexual Harassment involving
191 Students; Domestic Violence and Dating Violence; Discrimination; Harassment and Discriminatory
192 Harassment; and Stalking.

193

194

(*The July 29, 2016, update replaced gender-specific language.)

195 **3.8 Residence Student Conduct (RSC) Coordinator**

196 The RSC Coordinator works with the OSC to determine whether the case will be handled in the residence
197 judicial system or by the OSC.

198 A student charged with misconduct may request that the RSC Coordinator hear the case as an
199 administrative hearing. The RSC Coordinator may delegate authority to Residence Area Directors to hold
200 administrative hearings and hear cases.

201

202 **3.9 Residence Area Directors**

203 A. For purposes of the university Student Disciplinary Regulations, Residence Area Directors are those
204 employees within the Department of Residence with responsibility to manage student disciplinary
205 matters within the different university housing areas.

206 B. Within the residence judicial system, Residence Area Directors are responsible for:

- 207 1. Receiving reports of misconduct, and forwarding them to the RSC Coordinator.
208 2. Investigating allegations of misconduct.
209 3. Issuing notices of hearing.
210 4. Conducting administrative hearings when delegated by the RSC Coordinator.
211 5. Filing records regarding disciplinary actions with the RSC Coordinator.
212 6. Informing complainants of the outcome of the disciplinary process.

213

214 **3.10 Student Conduct Hearing Board (SCHB)**

215 The SCHB hears cases in which a serious violation of the Student Conduct Code may result in suspension
216 or expulsion from the university. The SCHB may also hear cases of minor nature which have been referred
217 by the OSC. The SCHB hears cases in boards of five persons each, at least two of whom are students.
218 The SCHB makes its recommendation to the Dean of Students.

219 The SCHB is composed of ten faculty members nominated by the members of the university community or
220 the Faculty Senate, ten staff members nominated by the Senior Vice President for Student Affairs, ten
221 graduate students nominated by the Graduate and Professional Student Senate, ten students nominated
222 by the Student Government and fifteen students nominated by the Dean of Students. All appointments are
223 subject to the approval of the Senior Vice President of Student Affairs.

224 All appointments are for a two-year term and may be extended or reappointed if the member is willing to
225 serve, unless the member has been removed by the appointing authority. If a vacancy occurs on the
226 committee, the nominating authority will replace that member with an interim member to complete the term.
227 All chairpersons (individual or joint) are approved by the Senior Vice-President for Student Affairs and are
228 from members of the general faculty or the professional and scientific staff. This appointment shall be for a
229 three-year term and may be extended or reappointed. Two faculty/staff and two students selected from the
230 45-member SCHB and the hearing board chair will constitute the hearing board for each case.

231

(*The July 29, 2016, update replaced gender-specific language.)

232 **3.11 Greek Judicial Representatives**

233 The Greek councils (Panhellenic, Interfraternity Council and the National Pan-Hellenic Council) shall
234 designate one or more judicial affairs representatives who will work in concert with the OSC to investigate
235 and present cases involving violations of the Student Conduct Code and other violations of university rules.
236 Greek Judicial representatives may not proceed to hearing without the approval of the OSC Administrator.

237

238 **3.12 Administrative Hearing Officers**

239 In cases involving Level 1 violations in which a student waives an SCHB hearing (see section 5.7.1), the
240 OSC Administrator may impose any sanction which could have been imposed in an SCHB hearing. In
241 cases involving Level 2 violations, the staff of the OSC may hold administrative hearings as administrative
242 hearing officers (see section 5.8.3) and can impose any sanction allowed by section 5.8.4.

243

244 **3.13 Administrative Law Judges**

245 In certain cases, students will be given the option of having their case heard in accordance with the state
246 Administrative Procedure Act (APA). Students who elect an APA hearing will have the case heard by an
247 administrative law judge appointed in accordance with Iowa Code Chapter 17A and Regent rules at 681
248 Iowa Administrative Code (IAC) §20.4-20.5A.

249

250 **3.14 Other Student Judicial Bodies at ISU**

251 Other student judicial bodies exist within student or campus organizations with the authority to resolve
252 internal disputes within the organization and between its members. These judicial bodies do not have
253 jurisdiction to resolve alleged violations that are the subject of the university Student Disciplinary
254 Regulations unless the OSC Administrator determines not to pursue the matter as a disciplinary
255 proceeding under the university Student Disciplinary Regulations.

256

257 **3.15 Student Government Supreme Court**

258 The Student Government Supreme Court is a judicial body created by Student Government to resolve
259 grievances between or among registered student/campus organizations and students and shall extend to
260 all cases arising out of the laws of Student Government.

261

262 **3.16 Sports Club Council**

263 The Sports Club Council is a judicial body created by the Constitution of the ISU Sports Club Council to
264 resolve grievances between registered sports clubs or a grievance by a member of the Sports Club
265 Council concerning matters involving the Sports Club Council.

266

(*The July 29, 2016, update replaced gender-specific language.)

267 **4. Student Conduct Code**

268 Students and registered student/campus organizations are entitled to all the rights and protections enjoyed
269 by members of the university community and are subject to obligations by virtue of this membership.
270 Students and registered student/campus organizations also are subject to all civil and criminal laws, the
271 enforcement of which is the responsibility of duly constituted civil and criminal authorities.

272 4.1 General Definitions and Standards
273 4.2 Prohibited Conduct

274

275 **4.1 General Definitions and Standards**

276 The following general definitions and standards apply to violations of the Student Conduct Code.

277 4.1.1 Members of the University Community
278 4.1.2 Campus
279 4.1.3 Off Campus Violations
280 4.1.4 Seriousness of Infractions
281 4.1.5 Aiding and Assisting
282 4.1.6 Attempt
283 4.1.7 Organizational Responsibility
284 4.1.8 Persons Subject to Student Disciplinary Regulations
285 4.1.9 Effect on Payment of Fees
286 4.1.10 Simultaneous Criminal Proceedings

287

288 **4.1.1 Members of the University Community**

289 Members of the university community include students, faculty and staff of Iowa State University; the
290 employees of organizations affiliated with ISU and located on or near campus; and visitors to the university
291 and organizations affiliated with ISU.

292 **4.1.2 Campus**

293 For the purposes of the conduct regulations, the campus includes the geographic confines of the
294 university, including its land, institutional roads and buildings, its leased premises, common areas at leased
295 premises, the property, facilities and leased premises of organizations affiliated with the university, such as
296 the Memorial Union, university housing, and university-recognized housing. University housing includes all
297 types of university residence housing such as halls and apartments. University-recognized housing
298 includes fraternity and sorority chapter dwellings.

299 **4.1.3 Off Campus Violations**

300 Conduct off campus in violation of the conduct regulations which affects a clear and distinct interest of the
301 university is subject to disciplinary sanctions. Specifically included within the university's interest are
302 violations that:

- 303 A. Involve conduct directed at other members of the university community;
- 304 B. Disrupt educational or other functions of the university;
- 305 C. Occur during or at university-sponsored events;
- 306 D. Occur during the events of organizations affiliated with the university, including the events of
307 student/campus organizations;
- 308 E. Occur during a Study Abroad Program or other university-related international travel; or

(*The July 29, 2016, update replaced gender-specific language.)

309 F. Pose a disruption or threat to the university community.

310 **4.1.4 Seriousness of Infractions**

311 A. A violation of any provision of the conduct regulations will be regarded as more serious if:

- 312 1. The conduct involves threatened or actual physical injury to another person, or endangers other
- 313 persons;
- 314 2. The conduct is willful or intentional;
- 315 3. The conduct results in, contributes to or enhances the severity of a public disorder, group
- 316 violence or a mass disturbance that involves conduct in violation of section 4.2.13;
- 317 4. The conduct involves interference with safety officials (police, fire and emergency medical
- 318 responders) in the performance of their work;
- 319 5. The conduct involves the use of drugs, alcohol or medicine to incapacitate a student's ability to
- 320 give consent to participate in an activity;
- 321 6. The same or similar conduct is repeated; or
- 322 7. The conduct impairs other students' abilities to continue their education.

323 B. A violation of any provision of the conduct regulations will be regarded as less serious if:

- 324 1. Immediately after the conduct, and before being notified that disciplinary action may take place,
- 325 the violator takes significant measures to correct their conduct or lessen the damage caused;
- 326 2. In the case of group violence or mass disturbance, the violator can show that their actions were
- 327 consistently directed to quelling the riot or mass disturbance; or
- 328 3. The violator was encouraged or coerced to act in an uncharacteristic manner.

329 **4.1.5 Aiding and Assisting**

330 Students and student/campus organizations aiding or assisting others in violating university conduct
331 regulations are subject to disciplinary sanction under these regulations.

332 **4.1.6 Attempt**

333 A student or student/campus organization may be disciplined for attempting to violate the Student Conduct
334 Code, even though the attempt is not successful.

335 **4.1.7 Organizational Responsibility**

336 A registered student or campus organization may be held responsible for misconduct when:

- 337 A. Its officers or other leadership use or knowingly allow the use of the facilities, resources,
- 338 membership or name of the student/campus organization for actions that are a violation of the
- 339 Student Conduct Code;
- 340 B. The leadership of the student/campus organization encourages a violation of the Student Conduct
- 341 Code by its members; or
- 342 C. A significant number of members of the student/campus organization engage in concerted action
- 343 which violates the Student Conduct Code and the leadership of the student/campus organization
- 344 knows or should have known of a violation by its members and takes no action to stop the violation.

345

(*The July 29, 2016, update replaced gender-specific language.)

346 **4.1.8 Persons Subject to Student Disciplinary Regulations**

347 Persons who are students or admitted to ISU at the time of the alleged violation are subject to these
348 university Student Disciplinary Regulations. The term "student" shall include admitted students. Registered
349 student/campus organizations are subject to these regulations.

350 **4.1.9 Effect on Payment of Fees**

351 Disciplinary action shall not affect payment of tuition and fees, nor will refunds of fees be granted.
352 Exceptions may be granted in the case of a delay, not the fault of the student or student/campus
353 organization, that causes the student to incur tuition or fees which could have been avoided.

354 **4.1.10 Simultaneous Criminal Proceedings**

355 A Formal Complaint may be instituted against an accused student charged with conduct that potentially
356 violates both the Student Conduct Code in these Student Disciplinary Regulations and federal, state or
357 local criminal law. In this situation the university reserves the right to move forward with the student
358 disciplinary investigative and adjudication process at the same time the criminal process is proceeding. In
359 cases affecting the safety of campus (including cases involving domestic violence, dating violence, sexual
360 assault and stalking), the university will move forward with investigation and adjudication unless all parties
361 agree to suspension of the university process, or the prosecuting authority handling the criminal matter
362 requests suspension of the university process. The university will suspend its process only if it deems
363 measures to preserve safety are sufficient under the circumstances.

364

365 **4.2 Prohibited Conduct**

366 The following are violations of the Student Conduct Code and are subject to disciplinary sanctions by the
367 university. Each violation is numbered for ease of reference and may be referred to as "SDR section X."

- 368 4.2.1 Academic and Research Misconduct
369 4.2.2 Misuse of Alcoholic Beverages and Controlled Substances
370 4.2.3 Assault, Injury and Threat
371 4.2.4 Indecent Exposure
372 4.2.5 Sexual Misconduct, Sexual Assault and Sexual Harassment
373 4.2.6 Domestic Violence and Dating Violence
374 4.2.7 Discrimination
375 4.2.8 Harassment and Discriminatory Harassment
376 4.2.9 Stalking
377 4.2.10 Public Urination
378 4.2.11 Hazing
379 4.2.12 Disruption of Rights
380 4.2.13 Public Disorder, Group Violence and Mass Disturbance
381 4.2.14 Contempt
382 4.2.15 Endangerment
383 4.2.16 Fire or Safety Violations
384 4.2.17 Possession or Misuse of Weapons
385 4.2.18 Unlawful Entry or Trespassing
386 4.2.19 Theft or Damage to Property or Services
387 4.2.20 Bribery and Extortion
388 4.2.21 Gambling
389 4.2.22 Misuse of Identification and Falsification
390 4.2.23 Misuse of Keys or Access Cards
391 4.2.24 Misuse of Technology Resources
392 4.2.25 Unauthorized Sale of Others' Intellectual Works
393 4.2.26 Violations of Conditions of Recognition
394 4.2.27 Violation of Department of Residence Regulations
395 4.2.28 Violation of Study Abroad Regulations
396 4.2.29 Violation of Regents Uniform Rules of Personal Conduct
397 4.2.30 Violation of ISU Non-Retaliation Against Persons Reporting Misconduct Policy
398 4.2.31 Violation of Any Local, State, or Federal Law

(*The July 29, 2016, update replaced gender-specific language.)

399

400 4.2.1 Academic and Research Misconduct

- 401 A. Academic Misconduct. The academic work of all students must comply with all university policies on
402 academic honesty. Examples of academic misconduct are:
- 403 1. Attempting to use unauthorized information in the completion of an exam or assignment;
 - 404 2. Submitting as one's own work, themes, reports, drawings, laboratory notes, computer programs
405 or other products prepared by another person;
 - 406 3. Knowingly assisting another student in obtaining or using unauthorized information or materials;
407 or,
 - 408 4. Plagiarism.

409 Academic honesty policies are included in the policy on Academic Dishonesty, policies and
410 procedures on Academic Misconduct Investigations, and the Acceptable Use of Information
411 Technology Resources policy. Additional information on academic dishonesty is available in the
412 Iowa State University Catalog (see Resources below). In addition, students are responsible for
413 following ethical standards adopted by the various colleges and departments.

- 414 B. Research Misconduct. Students must also comply with the university policy on Research
415 Misconduct. The policy prohibits research misconduct, which is fabrication, falsification, or
416 plagiarism in proposing, performing, or reviewing research or in reporting research results.
- 417 C. In addition, students are responsible for adhering to expectations in course syllabi and for following
418 directions given by faculty and instructors related to assignments and exams.

419 4.2.2 Misuse of Alcoholic Beverages and Controlled Substances

- 420 A. Policies and Laws. Students and student/campus organizations are subject to ISU's alcohol policies
421 and federal, state, and local laws. Violations of the policies or laws include, but are not limited to, the
422 illegal possession, use, manufacture, distribution, or sale of alcoholic beverages or controlled
423 substances both on and off campus. Members of the university community are accountable for their
424 own actions and are expected to make responsible, lawful decisions regarding the use of alcohol.
425 Alcohol must only be used in ways that neither harm nor degrade the individual or the university
426 community. Students under the legal age may not use altered or falsified identification to procure
427 alcohol.
- 428 B. Supplying Alcohol to Persons Underage. Students and student/campus organizations may not
429 supply alcoholic beverages to persons who are not of legal age to possess or consume alcoholic
430 beverages. This section will apply to persons who intentionally, knowingly, recklessly or negligently
431 supply alcohol to persons underage. For example, a person or organization that holds or sponsors
432 an event/activity and fails to take reasonable measures to assure that persons under the legal age
433 are not receiving and/or drinking alcohol is in violation of this section. This rule will not apply in those
434 cases where alcoholic beverages are consumed in a private residence with the knowledge, consent
435 and presence of the parent or guardian, or where the underage recipient handles alcoholic
436 beverages in the course of employment by a licensed seller of alcoholic beverages, as provided
437 under Iowa Code §123.47.

438

(*The July 29, 2016, update replaced gender-specific language.)

439 **4.2.3 Assault, Injury and Threat**

440 Assault, injury or threat is an act that:

- 441 A. Is intended to cause pain or injury to another;
- 442 B. Is intended to result in physical contact which is insulting or offensive to another;
- 443 C. Is intended to place another in fear of immediate physical contact that will be painful, injurious,
444 insulting or offensive;
- 445 D. Involves pointing any firearm or simulated firearm toward another;
- 446 E. Involves the display, in a threatening manner, of any dangerous weapon toward another; or
- 447 F. Involves making a threat intended to cause another person to fear for their safety or physical well-
448 being.

449 **4.2.4 Indecent Exposure**

450 Indecent exposure, defined as intentionally, in a public place where other persons are present, exposing
451 your genitals or other intimate parts of your body under circumstances where the exposure is reasonably
452 likely to offend, annoy or alarm another person is prohibited.

453 **4.2.5 Sexual Misconduct, Sexual Assault, and Sexual Harassment**

454 Sexual misconduct, sexual assault and sexual harassment are prohibited as stated in the university's
455 policy regarding [Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students](#). Sexual
456 misconduct is a broad term encompassing any non-consensual behavior of a sexual nature that is
457 committed by force or intimidation, or that is otherwise unwelcome. The term includes sexual assault,
458 sexual exploitation, and sexual harassment as those behaviors are described in the university's policy
459 regarding Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students.

460 **4.2.6 Domestic Violence and Dating Violence**

461 Domestic violence and dating violence as defined below are prohibited.

- 462 A. Domestic violence includes felony or misdemeanor crimes of violence committed by a current or
463 former spouse of the victim, by a person with whom the victim shares a child in common, by a
464 person who is cohabitating or has cohabitated with the victim as a spouse, by a person similarly
465 situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction
466 receiving grant monies, or by any other person against an adult or youth victim who is protected
467 from that person's acts under the domestic or family violence laws of jurisdiction.
- 468 B. Dating violence means violence committed by a person – 1) who is or has been in a social
469 relationship of a romantic or intimate nature with the victim; and 2) where the existence of such a
470 relationship shall be determined based on a consideration of the following factors: (i) The length of
471 the relationship. (ii) The type of relationship. (iii) The frequency of interaction between the persons
472 involved in the relationship.

473 **4.2.7 Discrimination**

474 Discrimination, as defined in the university Discrimination and Harassment policy, can include disparate or
475 different treatment directed toward an individual or group of individuals based on race, ethnicity, sex,
476 pregnancy, color, religion, national origin, physical or mental disability, age (40 and over), marital status,
477 sexual orientation, gender identity, genetic information, status as a U.S Veteran (disabled, Vietnam, or

(*The July 29, 2016, update replaced gender-specific language.)

478 other), or other protected class, when the treatment has a negative effect on the student's employment or
479 education.

480 **4.2.8 Harassment and Discriminatory Harassment**

481 A. Harassment is defined as any act or acts done without legitimate purpose and with the intent to
482 intimidate, annoy, or alarm another. Any act meeting the definition of harassment under Iowa Code
483 §708.7 is a violation of this rule. Engaging in First Amendment protected speech activities shall be
484 considered acts done with a legitimate purpose.

485 B. Discriminatory Harassment, as defined by the university's Discrimination and Harassment policy, is
486 prohibited. Discriminatory harassment is unwelcome behavior directed at an individual or group of
487 individuals based on race, ethnicity, pregnancy, color, religion, national origin, physical or mental
488 disability, age, marital status, sexual orientation, gender identity, genetic information, status as a
489 U.S. veteran (disabled, Vietnam, or other), or other protected class when the behavior has the
490 purpose or effect of substantially interfering with the student's education or employment by creating
491 an intimidating, hostile, or demeaning environment.

492 1. Examples can include but are not limited to threats, physical contact or violence, pranks, jokes,
493 bullying, epithets, derogatory comments, vandalism, or verbal, graphic, written, or electronic
494 conduct directed at an individual or group of individuals because of a protected class. Even if
495 actions are not directed at specific individuals, a hostile environment may be created when the
496 behavior is sufficiently severe, pervasive, and objectively offensive so as to substantially
497 interfere with or limit the ability of an individual to work, study, or otherwise to participate in
498 activities of the university.

499 2. Engaging in First Amendment protected speech activities may not rise to the level of
500 harassment, depending on the circumstances.

501 **4.2.9 Stalking**

502 Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a
503 reasonable person to—

504 A. Fear for their safety or the safety of others, or

505 B. Suffer substantial emotional distress.

506 **4.2.10 Public Urination**

507 Urinating in public is prohibited.

508 **4.2.11 Hazing**

509 Hazing is any intentional, knowing, or reckless action, request, or creation of circumstances that:

510 A. Endangers the health or safety of any individual;

511 B. Causes or presents a substantial risk of physical injury, serious mental distress, or personal
512 humiliation to any individual; or

513 C. Involves the destruction or removal of public or private property in connection with initiation or
514 admission into, or continued membership in, any group affiliated with the university, including but not
515 limited to, any student, campus, fraternal, academic, honorary, athletic, or military organization.

(*The July 29, 2016, update replaced gender-specific language.)

516 It is not a defense to the violation of this section that the hazing participant provided explicit or implied
517 consent. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this
518 section.

519 **4.2.12 Disruption of Rights**

520 Violations involving disruption of a university community member's rights are:

- 521 A. Intentional disruption, obstruction or denial of access to university services, facilities or programs;
- 522 B. Intentional interference with the rights, privacy, privileges, health and safety of persons on campus;
- 523 C. Interference with emergency evacuation procedures;
- 524 D. Intentional or knowing interference with academic pursuits;
- 525 E. Disorderly conduct;
- 526 F. Disturbing the peace; or
- 527 G. Inciting others to do acts which are restricted above.

528 **4.2.13 Public Disorder, Group Violence and Mass Disturbance**

529 Misconduct under these regulations includes the following actions related to public disorder, group violence
530 and mass disturbance:

- 531 A. Participating in group behavior that involves damage to property, actual violence or threatened
532 damage to property or violence;
- 533 B. Inciting a group toward immediate violent behavior;
- 534 C. Defying or refusing to obey police orders to disperse a group engaged in violent actions;
- 535 D. Inciting or encouraging a group to defy police orders to disperse when the group is engaged in
536 violent actions;
- 537 E. Assaulting, throwing objects at, or otherwise endangering police officers or city or university officials
538 and employees engaged in quelling a riot or mass disturbance;
- 539 F. Starting, stoking or using fire, creating barricades, or blocking streets and passageways, as part of a
540 riot or mass disturbance;
- 541 G. Interfering with police, fire and emergency medical personnel in carrying out their duties during a riot
542 or mass disturbance; or
- 543 H. Attempting to circumvent or defeat police crowd-control measures.

544 Students charged with participating in or encouraging acts of violence during a riot or mass disturbance are
545 subject to immediate interim suspension under section 5.5.2.

546 **4.2.14 Contempt**

547 Contempt is defined as the following:

- 548 A. Failure to appear before any university adjudicatory or regulatory body as summoned;
- 549 B. Failure to comply with any disciplinary sanctions or interim measures;
- 550 C. Failure to comply with the directive of authorized university officials or police officers;
- 551 D. Failure to identify oneself or to show an identification card when requested to do so by authorized
552 university officials or police officers; or
- 553 E. Providing, procuring, or seeking to procure, false testimony in any university or administrative
554 process.

(*The July 29, 2016, update replaced gender-specific language.)

555 **4.2.15 Endangerment**

556 The creation of a hazard, endangering the physical safety of self or others by engaging in a dangerous
557 activity or using hazardous materials or chemicals is prohibited.

558 **4.2.16 Fire or Safety Violations**

559 Fire or safety violations are:

- 560 A. Arson or attempt at arson;
- 561 B. Tampering with, damaging or misusing fire/safety equipment, emergency exits, barriers or signs;
- 562 C. Falsely reporting or setting alarms for fire, explosion or other emergencies on campus (for example:
563 bomb threats);
- 564 D. Interfering with law enforcement, fire safety officials, or university officials who are engaged in
565 discharging a safety-related duty;
- 566 E. Possession or unauthorized use of fireworks, explosive devices, or other flammable materials; or
- 567 F. Failure to evacuate a university facility when the fire alarm has been sounded.

568 **4.2.17 Possession or Misuse of Weapons**

569 Possession of weapons, unless authorized by the university, is a violation.

- 570 A. A weapon is any instrument or device designed primarily for use in inflicting death or injury upon a
571 human being or animal, and which is capable of inflicting death or injury when used in the manner
572 for which it was designed. Additionally, any instrument or device of any sort whatsoever which is
573 actually used in such a manner as to indicate that the possessor intends to inflict death or injury
574 upon another, and which, when so used, is capable of inflicting death or injury upon another, is a
575 weapon.
- 576 B. Weapons include any pistol, revolver, shotgun, machine gun, rifle or other firearm, BB or pellet gun,
577 Taser or stun-gun, bomb, grenade, mine or other explosive or incendiary device, ammunition,
578 archery equipment, dagger, stiletto, switchblade knife, or knife having a blade exceeding five inches
579 in length. Residents of university housing may possess knives having a blade exceeding five inches
580 for cooking purposes.
- 581 C. A "weapon" also means an object that is not an instrument capable of inflicting death or injury but
582 closely resembles such an instrument (for example, a realistic toy, replica, imitation weapon or look-
583 a-like gun that is reasonably capable of being mistaken for a real weapon) or the student used the
584 object in a manner that created the impression that the object was such an instrument (for example,
585 wrapping a hand in a towel to create the appearance of a gun).

586 **4.2.18 Unlawful Entry or Trespassing**

587 Unauthorized or attempted unauthorized entry, occupation or use of any university-owned or controlled
588 property, equipment or facilities is a violation. It is a violation to enter restricted areas of the university such
589 as restricted research areas and utility tunnels. Remaining in or on premises after permission to remain
590 has been revoked also is trespassing.

591 **4.2.19 Theft or Damage to Property or Services**

592 Actual or attempted unauthorized taking, use, misappropriation, or damage to property or services owned
593 or maintained by the university, property owned or controlled by recognized student organizations, by a

(*The July 29, 2016, update replaced gender-specific language.)

594 member of the university or Ames communities, by any person or visitor on campus, or by any person
595 attending a university-sponsored event is a violation. The knowing possession of stolen property is also a
596 violation.

597 **4.2.20 Bribery and Extortion**

- 598 A. Bribery is the offering, giving, receiving, or soliciting of anything of value to influence action as an
599 official or in discharge of legal or public duty.
600 B. Extortion is the attempt to obtain property, services or benefits from another induced by wrongful
601 use of actual or threatened force, violence, fear or coercion, or false pretense.

602 **4.2.21 Gambling**

603 As provided by Iowa law, the following are prohibited:

- 604 A. Bookmaking; or
605 B. Placing a bet or accepting wagers for a fee outside licensed gambling locations.

606 **4.2.22 Misuse of Identification and Falsification**

607 Improper actions of identification or falsification are:

- 608 A. Providing inaccurate identifying information to authorized officials with reason to request such
609 information;
610 B. Allowing another person to use identifying information of a different person for the purpose of
611 accessing university services or misleading authorized officials;
612 C. Knowingly misleading university officials, police officers, faculty, staff and organizations affiliated
613 with the university in the conduct of their official duties;
614 D. Tampering with official records, documents, identification cards; or
615 E. Forgery.

616 **4.2.23 Misuse of Keys or Access Cards**

617 This violation is defined as unauthorized possession, duplication or use of keys or cards that permit access
618 to any university or university-related services, vehicles, or premises, including university housing.

619 **4.2.24 Misuse of Technology Resources**

620 Students and student/campus organizations are subject to ISU's Acceptable Use of Information
621 Technology Resources policy. See Resources below. Examples of technology misuse may include, but are
622 not limited to:

- 623 A. Accessing, damaging or altering records, programs or databases without permission;
624 B. Accessing or disclosing another user's private files without permission;
625 C. Unlawful copying of, or improperly using or distributing copyrighted material;
626 D. Use of university computing facilities for personal financial gain without permission of the university;
627 or
628 E. Sending or posting obscene, harassing or threatening material.

629

(*The July 29, 2016, update replaced gender-specific language.)

630 **4.2.25 Unauthorized Sale of Others' Intellectual Works**

631 Course-related presentations are owned by the presenter. Students may take written notes or make other
632 recordings for educational purposes, but specific written permission to sell the notes or recordings must be
633 obtained from the presenter. Failure to secure permission is a violation of these conduct regulations.

634 **4.2.26 Violation of Conditions of Recognition**

635 Registered student and campus organizations may be disciplined for failing to meet conditions of
636 recognition of student/campus organizations as established by the university. In addition to these
637 disciplinary regulations, registered student/campus organizations not in compliance with university
638 regulations relating to student/campus organizations may be denied privileges by the office responsible for
639 administering such conditions until they comply with conditions of recognition.

640 **4.2.27 Violation of Department of Residence Regulations**

641 Members of the university housing community are subject to the following additional rules and regulations:

- 642 A. The terms of their residence contract, which are separately enforceable pursuant to the terms of the
643 contract; and
644 B. Rules and regulations adopted within the living unit in accordance with the bylaws of the student
645 residence governments.

646 **4.2.28 Violation of Study Abroad Regulations**

647 Students who participate in an ISU Study Abroad Program are subject to the following additional rules and
648 regulations:

- 649 A. Rules and regulations adopted by the ISU Study Abroad Center and provided to each student in the
650 Study Abroad Code of Conduct (see Resources below);
651 B. The laws of the host country in which the student is traveling or living; and
652 C. The academic and disciplinary regulations of the educational institution or residential housing
653 program where the student is studying.

654 **4.2.29 Violation of Regents Uniform Rules of Personal Conduct**

655 The Board of Regents, State of Iowa, has adopted Uniform Rules of Personal Conduct applicable to the
656 public universities under their jurisdiction. See 681 IAC §9.1. A violation of the Uniform Rules of Personal
657 Conduct is also a violation of this Student Conduct Code.

658 **4.2.30 Violation of ISU Non-Retaliation Against Persons Reporting Misconduct Policy**

659 Retaliation against a person who makes a good faith report of activity believed to be unlawful, unethical or
660 in violation of university policy is prohibited. "Retaliation" is a materially (not trivial) adverse action taken
661 against a person because of the person's report, or participation in the investigation of a report of
662 misconduct, or objecting to or resisting such misconduct.

663 **4.2.31 Violation of Any Local, State, or Federal Law**

664 Students and student/campus organizations are expected to abide by the laws and regulations applicable
665 to other citizens. Any action or conduct that meets the definition of a crime under any local, state, or federal

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666 law is prohibited. A violation of this section may be shown by preponderance of the evidence, or by
667 documentation of a final determination or formal admission of guilt.

668

669 **5. Process**

670 [5.1 Reports of Disciplinary Misconduct](#)
671 [5.2 Investigation of Disciplinary Misconduct](#)
672 [5.3 Classification and Formal Complaints](#)
673 [5.4 Giving Notice: How to Count Business Days](#)
674 [5.5 Interim Measures](#)
675 [5.6 Agreed Resolutions](#)
676 [5.7 Procedures and Sanctions in Level 1 Cases](#)
677 [5.8 Procedures and Sanctions in Level 2 Cases](#)
678 [5.9 Procedures in Study Abroad Cases](#)

679

680 **5.1 Reports of Disciplinary Misconduct**

681 The student disciplinary process normally begins with the filing of a report by a complainant or a person
682 who has observed or is aware of alleged student misconduct, whether the conduct was directed at the
683 reporter or another person. Misconduct reports should be submitted as soon as possible after the
684 misconduct event occurs. Although there is no time limit on the reporting of misconduct, the university may
685 ultimately be unable to adequately investigate if too much time has passed or if the students involved have
686 graduated. For reporting sexual misconduct, please refer to the university's policy regarding Sexual
687 Misconduct, Sexual Assault, and Sexual Harassment involving Students.

688 Misconduct reports may be filed by providing a written statement of the nature of the alleged violation to
689 the following offices:

- 690 A. For all matters: the OSC
691 B. For sexual misconduct, sexual assault, sexual harassment and discrimination: the Office of Equal
692 Opportunity
693 C. For university housing matters: the RSC Coordinator or Residence Area Directors

694 The person who receives a misconduct report shall provide a copy of the report to the OSC Administrator
695 within a reasonable time after receipt.

696 For allegations of academic dishonesty against students, consult the Academic Regulations of the Iowa
697 State University Catalog for information relating to procedures prior to referral for disciplinary action. In the
698 case of allegations of violation of the College of Veterinary Medicine Interclass Honor Code, cases may be
699 brought under these procedures, or under the separate procedures of the College of Veterinary Medicine.
700 Consult the College of Veterinary Medicine Student Handbooks. For allegations of research misconduct,
701 consult the university's Research Misconduct policy for information relating to the procedures for handling
702 such allegations.

703

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(*The July 29, 2016, update replaced gender-specific language.)

705 **5.2 Investigation of Disciplinary Misconduct**

706 When the OSC or the RSC Coordinator receives a report, a copy shall be filed centrally in the OSC. The
707 OSC Administrator will determine who will investigate the alleged violation except for matters involving
708 SDR 4.2.5 Sexual Misconduct, Sexual Assault and Sexual Harassment; SDR 4.2.6 Domestic Violence and
709 Dating Violence; SDR 4.2.7 Discrimination; SDR 4.2.8 Harassment and Discriminatory Harassment; and
710 SDR 4.2.9 Stalking. Investigations of these matters will be determined by the Office of Equal Opportunity.

711 The OSC Administrator and the Office of Equal Opportunity have the authority to initiate an investigation in
712 the absence of a report, if they become aware of possible misconduct by a student or student/campus
713 organization.

714 If it appears an investigation is warranted, the OSC or the Office of Equal Opportunity may schedule initial
715 meetings with the complainant or with the accused student or student/campus organization to provide
716 information as to 1) the allegations; 2) the possible hearing processes; 3) the student's or student/campus
717 organization's rights; and 4) possible outcomes of the process. The complainant's initial meeting shall be
718 separate from the initial meeting with the accused student. Failure of an accused student or the officers of
719 an accused student/campus organization to appear for the initial meeting may result in placement of a hold
720 on registration or records as provided under section 5.5.1. Failure to respond to a request for an initial
721 meeting, or failure to appear for an initial meeting, will not prevent an investigation from proceeding.

722 Upon completing the investigation, the OSC Administrator will consult with the investigating office and
723 determine if there is cause to believe a violation has occurred and whether the violation is classified as a
724 Level 1 or Level 2 violation.

725

726 **5.3 Classification and Formal Complaints**

727 The OSC will review all reports to determine whether there is sufficient evidence for charges and whether
728 those charges are at the Level 1 or Level 2 classification.

729 **5.3.1 Formal Complaint in Level 1 Cases**

730 A Level 1 case is defined as any violation of the Student Disciplinary Regulations which may result in a
731 sanction up to and including suspension or expulsion. In a Level 1 case, a formal complaint will be
732 provided to a student or student/campus organization and will include:

- 733 A. Any provision of the Student Conduct Code which appears to have been violated;
734 B. A summary of grounds for the alleged violation;
735 C. A specific date by which the student or student/campus organization must schedule an appointment
736 and review the evidence contained in the student's disciplinary file; and
737 D. A description of the hearing options available to the student or student/campus organization. The
738 options include a hearing before the SCHB under section 5.7.1, waiving an SCHB hearing and
739 requesting an administrative hearing before the OSC under section 5.7.1, or electing an
740 administrative hearing under the Iowa Administrative Procedure Act (APA) pursuant to section
741 5.7.12.

(*The July 29, 2016, update replaced gender-specific language.)

742 In a Level 1 case, a notice of hearing will be provided to a student or student/campus organization at least
743 seven business days before the hearing is held. The complainant shall be provided a copy of the formal
744 complaint and notice of hearing at the same time as the accused student.

745 **5.3.2 Formal Complaint in Level 2 Cases**

746 A Level 2 case is defined as any violation of the Student Disciplinary Regulations which may result in a
747 sanction up to and including Deferred Suspension. Level 2 cases cannot result in a student being
748 suspended or expelled from the institution. In a Level 2 case, a Formal Complaint will be provided to a
749 student or student/campus organization and will include:

- 750 A. Any provision of the Student Conduct Code which appears to have been violated;
- 751 B. A summary of grounds for the alleged violation; and
- 752 C. A specific date by which the student and/or organization must schedule a hearing with the office
753 responsible for hearing the formal complaint.

754 In a Level 2 case, a notice of hearing will be provided to a student or student/campus organization at least
755 four business days before the hearing is held. The complainant shall be informed of the formal complaint
756 and notice of hearing at the same time as the accused student.

757

758 **5.4 Giving Notice: How to Count Business Days**

759 Notice is given to students via email which is the primary means the university has for contacting students.
760 Additionally, notice may also be given to students living on campus by hand delivery to the student's
761 residence hall or apartment mailbox, or to students living on or off campus by United States mail to the
762 student's last known address. Notice may also be sent to a student's home town address. Student/campus
763 organizations may be given notice by hand delivery or United States mail to an officer of the organization
764 as listed in the organization's last registration or request for recognition.

765 For the purpose of these procedures, "business days" are those days the university is open for regular
766 business during the fall, spring or summer terms. Weekends and university-wide holidays are excluded.
767 When the day by which some action must be taken falls between terms, or within the weeks of
768 Thanksgiving or spring break, the action will normally be postponed to the first business day after the break
769 or the beginning of the next term. However, the university may require, upon prior notification of the
770 student, that extenuating circumstances warrant counting of days during such breaks.

771

772 **5.5 Interim Measures**

773 The following interim measures may be taken prior to the final adjudication of a case after an allegation of
774 misconduct has been reported.

775 **5.5.1 Hold on Registration and Records**

- 776 A. The OSC Administrator or Dean of Students may place a hold on the accused student's registration,
777 transcripts, new awards of financial aid and/or other university records until the case is adjudicated
778 when the following circumstances occur:

(*The July 29, 2016, update replaced gender-specific language.)

- 779 1. The student has failed to respond promptly to requests for information from the investigating
780 office;
- 781 2. The student has failed to appear for the initial meeting with the OSC Administrator or for any
782 hearing;
- 783 3. The alleged conduct is such that, if true, may pose a threat of harm to persons or property; or
784 4. The student is scheduled to graduate prior to the adjudication of the case.
- 785 B. When a student has pre-registered for a term after the one in which the hold is placed, the OSC
786 Administrator or Dean of Students may also revoke the registration of a student.
- 787 C. If there are allegations of misconduct relating to the qualifications of a student to graduate, such as
788 allegations of academic fraud or serious allegations of misconduct, the OSC Administrator or Dean
789 of Students may delay graduation until the charges are determined.
- 790 D. The decision to place a hold on registration, to revoke registration, or to delay graduation may be
791 appealed to the Dean of Students or the Senior Vice President for Student Affairs. The OSC
792 Administrator or Dean of Students may impose reasonable conditions on release of the hold.

793 **5.5.2 Interim Suspension**

794 The OSC Administrator or Dean of Students may order that a student be immediately excluded from
795 classes, university facilities (including university housing), and / or denied privileges and ability to
796 participate in activities when the student's continued presence may constitute a significant danger to safety
797 or property. The student will receive a written notice stating the reasons for the interim suspension and the
798 time and place of the hearing to be held within two business days. The hearing will be before the Dean of
799 Students.

800 At the time of the hearing, the university shall show probable cause why interim suspension is warranted,
801 and the student shall have the opportunity to show why interim suspension is not warranted. If it appears
802 that the student's behavior indicates medical withdrawal is warranted, the OSC Administrator or Dean of
803 Students may initiate medical withdrawal as provided in the Iowa State University Catalog under "Interim or
804 Medical Withdrawal." Hearings regarding continued suspension and medical withdrawal will be held under
805 that policy (see Resources below).

806 **5.5.3 Interim Suspension of Organizational Privileges**

807 The OSC Administrator or Dean of Students may order that a student/campus organization be immediately
808 denied university privileges and be excluded from activities on the campus when the student/campus
809 organization's continued activity on the campus may constitute a significant danger to safety, property or
810 campus welfare. The student/campus organization will receive a written notice stating the reasons for the
811 interim suspension and the time and place of the hearing to be held within five business days. The hearing
812 will be before the Dean of Students. At the time of the hearing, the university shall show probable cause
813 why interim suspension is warranted, and the organization shall have the opportunity to show why interim
814 suspension is not warranted.

815 **5.5.4 No Contact Notice**

816 In cases involving allegations of assault, injury, sexual abuse, harassment or where there is reason to
817 believe continued contact between the accused and specific persons, including complainants and
818 witnesses, may interfere with those persons' security, safety or ability to participate effectively in work or
819 studies, the OSC Administrator, the Director of Residence or Director of Public Safety may require that the

(*The July 29, 2016, update replaced gender-specific language.)

820 accused student not have contact with specific persons. The student will receive a written notice of, and
821 reasons for, the No Contact Notice.

822 In addition to this internal university No Contact Notice, complainants are advised that other similar options
823 exist under Iowa law pursuant to civil and criminal proceedings. If criminal domestic abuse charges are
824 filed against the accused the court will automatically impose a criminal No Contact Order pursuant to Iowa
825 Code Chapter 664A. For other crimes, the court has the ability to impose a No Contact Order as well. If no
826 criminal charges are filed, but the complainant is involved in a domestic relationship with the accused, the
827 complainant may apply to the court for a Civil Protective Order under Iowa Code Chapter 236.

828 **5.5.5 Interim Removal from University Housing**

829 The OSC Administrator or Dean of Students may order that a student be immediately removed from
830 university housing when the student's continued presence constitutes an ongoing risk to property and / or
831 to the safety and well-being of other students in the community. The student will receive a written notice
832 stating the reasons for the interim removal and the time and place of the hearing to be held within two
833 business days. The hearing will be before the Dean of Students.

834 At the time of the hearing, the university shall show probable cause why interim removal from university
835 housing is warranted, and the student shall have the opportunity to show why interim removal from
836 university housing is not warranted.

837 **5.5.6 Other Interim Measures**

838 Other Interim Measures are available for implementation prior to the final outcome of a disciplinary hearing
839 to assist in ensuring the safety and well-being of university students in our educational setting.
840 Implementation will depend on the specific facts and circumstances of each case but may include such
841 measures as referrals for support services, changing on-campus living and dining arrangements, and/or
842 adjusting academic courses, schedules and assignments or on-campus employment obligations for the
843 involved students. When imposing interim measures, the OSC must work closely with the involved
844 university departments and should minimize the burden on the complainant with the goal of ensuring the
845 complainant's continuing educational needs while also respecting the accused student's rights.

846

847 **5.6 Agreed Resolutions**

848 At any time before the hearing, if the OSC Administrator and the accused student or student/campus
849 organization reach agreement upon a reasonable sanction for conduct, the parties may enter into an
850 agreed resolution which shall be binding upon approval by the Dean of Students. Discussions regarding
851 agreed resolutions shall not be introduced against the accused as evidence of responsibility in disciplinary
852 hearings.

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855 **5.7 Procedures and Sanctions in Level 1 Cases**

856	<u>5.7.1 Jurisdiction of the SCHB; Waiver of SCHB Hearing</u>
857	<u>5.7.2 Conflicts of Interest and Challenging Hearing Board Members for Bias</u>
858	<u>5.7.3 Time for Hearing</u>
859	<u>5.7.4 Review of Documents and Case Summary</u>
860	<u>5.7.5 Opening of Hearings</u>
861	<u>5.7.6 Right to Presence of Advisors</u>
862	<u>5.7.7 Right to be Present/Failure to Attend</u>
863	<u>5.7.8 The Hearing</u>
864	<u>5.7.9 Sanctions Permissible in Level 1 Cases</u>
865	<u>5.7.10 Actions of Dean of Students</u>
866	<u>5.7.11 Notification of Final Results</u>
867	<u>5.7.12 Option for Administrative Procedure Act (APA) Hearing</u>

868

869 **5.7.1 Jurisdiction of the SCHB; Waiver of SCHB Hearing**

870 If the OSC determines that the case is Level 1 (see section 5.3.1), the case will be heard by the SCHB
 871 hearing board. The accused student or student/campus organization may waive hearing and request an
 872 administrative hearing. The OSC may grant the request, or continue to an SCHB hearing. When an
 873 administrative hearing is held, the OSC will hear the case under the informal rules for administrative
 874 hearings and, if the student is found responsible, will recommend a sanction to the Dean of Students.
 875 When an SCHB hearing is waived, the OSC and the Dean of Students may impose any sanction which
 876 could have been imposed in an SCHB hearing.

877 **5.7.2 Conflicts of Interest and Challenging Hearing Board Members for Bias**

878 In order to provide an impartial hearing, each panel member selected for an SCHB Hearing will be queried
 879 for conflicts of interest or potential bias. Based upon the disclosure, the OSC Administrator may reject the
 880 panel member and select a new one. If a panel member discloses a conflict of interest or potential bias,
 881 and the individual is not rejected, the disclosure will be made available to the accused student and the
 882 complainant or student/campus organization.

883 Whether there is a disclosure or not, the accused student, complainant or student/campus organization
 884 may request removal of members of the hearing board for reasons of bias. Such requests, including the
 885 reasons for it, should be made as early as possible to the OSC Administrator, but no later than 5:00 p.m. of
 886 the business day prior to the hearing. If there is a change in the composition of the hearing board after
 887 issuance of the notice of the hearing, the student or student/campus organization may request removal of
 888 the new board members at the opening of the hearing. The chair of the hearing board will make decisions
 889 regarding removal, unless the student is requesting removal of the chair. Where there is a request to
 890 remove the chair, and the chair does not voluntarily remove themselves, the Dean of Students will decide
 891 whether removal is warranted.

892 **5.7.3 Time for Hearing**

893 The SCHB hearing will be held within 20 business days of issuance of formal complaint, unless the OSC or
 894 the hearing board chair grants additional time upon the written request of the accused student, the
 895 accused student/campus organization or the Student Conduct representative presenting the case. The
 896 accused student or student/campus organization and the complainant shall have at least seven business
 897 days' notice of the charges and hearing.

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(*The July 29, 2016, update replaced gender-specific language.)

899 **5.7.4 Review of Documents and Case Summary**

900 After issuance of a formal complaint or notice of the SCHB hearing, the accused and the complainant may
901 review the documents to be presented at the hearing (in the OSC only) and the case summary evidence
902 prepared by the OSC. The accused and the complainant may suggest the names of witnesses to be called
903 during the hearing. The case summary will indicate the following information:

- 904 A. Persons expected to testify
- 905 B. Documents expected to be used
- 906 C. A short summary of the information to be presented to the SCHB.

907 **5.7.5 Opening of Hearings**

908 All hearings are closed to the public; however, the accused has the right to submit a written request for an
909 open hearing at least three business days prior to the hearing. The hearing board chair also has the
910 discretion to close a hearing or a portion of the hearing when:

- 911 A. Charges involve alleged personal misconduct that might be embarrassing to the party, the
912 complainant or witnesses;
- 913 B. The complainant does not agree to an open hearing.
- 914 C. A witness might be harmed if the case were disclosed;
- 915 D. A witness does not agree to give open testimony;
- 916 E. Private student records, as defined under the Family Educational and Privacy Rights Act (FERPA),
917 would be disclosed; or
- 918 F. There is another compelling reason.

919 **5.7.6 Right to Presence of Advisors**

920 Any two persons from within the university community (faculty, staff, student) or outside the university
921 community may advise the accused student or student/campus organization. Complainants and witnesses
922 at a proceeding also have the same right to the presence of advisors. The SCHB is not a court proceeding.

- 923 A. The advisor may:
 - 924 1. Advise the students on the preparation and presentation of the case;
 - 925 2. Accompany students to all judicial hearings; and
 - 926 3. Advise the students in preparation and presentation of any appeal.
- 927 B. The advisor may not:
 - 928 1. Present any part of the case for the students or student/campus organization. However, a
929 student with a disability affecting communication or a student who cannot effectively
930 communicate in the English language may seek a reasonable accommodation from the chair of
931 the assigned SCHB hearing board to allow an advisor or interpreter to present or translate the
932 case for the student;
 - 933 2. Directly examine or cross examine witnesses; or
 - 934 3. Disrupt or delay the proceedings.
- 935 C. Advisors not complying with university hearing procedures may be removed from the judicial
936 proceedings by the chairperson of the SCHB hearing board.

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938 **5.7.7 Right to be Present/Failure to Attend**

939 The accused student, complainant or officers of an accused student/campus organization have the right to
 940 be present at the hearing. If the student or student/campus organization fails to attend the hearing after
 941 having been given proper notice of the hearing, the hearing board chair may find the student or
 942 student/campus organization responsible and recommend an appropriate sanction. The hearing board
 943 chair must require the OSC Administrator to present a summary of the evidence prior to making a finding
 944 and recommendation.

945 **5.7.8 The Hearing**

946 The hearing board chair will have general authority to control the proceedings and to call conferences of
 947 the SCHB. The hearing board chair may permit testimony to be taken by telephone, remote video or
 948 otherwise, keeping in mind fairness to the accused and the complainant. The accused student and the
 949 complainant shall have substantially the same opportunity to present to the SCHB. Upon request, the
 950 complainant shall be separated from the accused student during the hearing. The chair may impose
 951 measures to prevent witnesses from being harassed by any party.

- 952 A. The chair will ask the accused to state whether they are responsible or not responsible for the
 953 alleged violation. The accused may remain silent or refuse to answer any questions. The accused
 954 may admit responsibility and make a statement regarding suggested sanctions.
- 955 B. The OSC representative and the accused will be asked to give a summary of the case.
- 956 C. A representative of the OSC will present the case to the SCHB. The OSC representative will be
 957 asked to present the evidence supporting disciplinary action.
- 958 D. The complainant will be asked to present a statement and evidence supporting their view of the
 959 case.
- 960 E. The accused will be asked to present a statement and evidence supporting their view of the case.
- 961 F. Witnesses may be questioned by members of the SCHB. All questions to witnesses and parties will
 962 be directed through the SCHB. There will be no direct questioning between the accused and
 963 complainant. At the request of either party, witnesses (other than the accused and the complainant)
 964 will be excluded from the hearing room until such time as they have testified. The hearing board and
 965 the accused may call witnesses as deemed necessary.
- 966 G. Formal rules of evidence do not apply. The SCHB will consider both witness testimony and
 967 documentary evidence and give it appropriate weight under the circumstances. Past unrelated
 968 behavior of the accused or the complainant shall not be admitted in evidence by the SCHB chair.
- 969 H. The hearing board will make its decision based on the evidence presented at the hearing.
- 970 I. A video recording will be made in SCHB hearings. All other recording devices and/or cameras are
 971 prohibited in hearings.
- 972 J. After hearing the evidence, the hearing board will deliberate in private and decide by a vote of at
 973 least three of its five members whether the accused student or student/campus organization is
 974 responsible for the alleged violation. The hearing board shall base its decision that the alleged
 975 violation occurred or not on a standard of preponderance of the evidence (i.e., whether it is more
 976 likely than not that an alleged violation occurred). The hearing board shall forward a written
 977 statement that explains the reasons for their recommendation to the Dean of Students.
- 978 K. If the accused is found responsible, the hearing board shall request a pre-sanction report from the
 979 OSC to determine if the accused may have had previous violations. Additionally, the complainant
 980 may make a statement in person or in writing about how the alleged conduct has affected them and

(*The July 29, 2016, update replaced gender-specific language.)

981 may also provide a recommendation as to an appropriate sanction. The SCHB will then recommend
982 sanctions to the Dean of Students.

983 L. Dissenting members may present a dissenting opinion or recommended sanction to the Dean of
984 Students.

985 **5.7.9 Sanctions permissible in Level 1 Cases**

986 A. **Individuals:** In addition to the sanctions permissible in a Level 2 case (see section 5.8.4), the
987 following sanctions may be imposed upon an individual student in a Level 1 case:

- 988 1. **Restitution:** A requirement to pay the cost of property damage or medical expenses to another
989 student or student/campus organization incurred during conduct violation or make other
990 appropriate restitution, where the costs are up to or exceeding \$1000;
- 991 2. **Long-Term Limitation on Activity or Access:** A requirement that the student be limited in or
992 excluded from participation in an extracurricular activity, club or organization for a period of more
993 than seven months. Access to university facilities and premises may be limited or denied.
- 994 3. **Revocation of Admission:** If a student violates the Student Conduct Code after admission, but
995 before attendance at the university, admission may be revoked and fees may be refunded.
- 996 4. **Defined Length Suspension:** The student is dropped from the university for a specific length of
997 time. This suspension may not be less than one semester or more than two years. Reinstatement
998 may be contingent upon meeting the written requirements of the SCHB at the time the sanction
999 was imposed. A hold will be placed on reentry until reinstatement is granted under the procedure
1000 provided in section 7 below.
- 1001 5. **Indefinite Suspension:** The student is dropped from the university indefinitely. Reinstatement
1002 may be contingent upon meeting the written requirements of the SCHB specified at the time the
1003 sanction was imposed. Normally, a student who is suspended indefinitely may not be reinstated
1004 for a minimum of two years. A hold will be placed on reentry until reinstatement is granted under
1005 the procedure provided in section 7 below.
- 1006 6. **Expulsion:** The student is permanently deprived of their opportunity to continue at the university
1007 in any status.
- 1008 7. **Transcript Notation:** When a student is sanctioned with an expulsion, suspension or revocation
1009 of admission, a written notation will be placed on the student's official transcript.

1010 B. **Student/Campus Organizations:** In addition to the sanctions permissible in a Level 2 case (see
1011 section 5.8.4), the following sanctions may be imposed upon a registered student/campus
1012 organization in a Level 1 case:

- 1013 1. **Term Suspension:** A student/campus organization may be suspended from recognition and
1014 university privileges for a specific amount of time. This suspension may not be less than one
1015 semester or more than four years.
- 1016 2. **Indefinite Suspension:** A student/campus organization may be indefinitely suspended from
1017 recognition and university privileges. The suspension may indicate that the student/campus
1018 organization shall not be considered for reinstatement for a specified period of time. To achieve
1019 recognition again, the student/campus organization may apply for recognition, and the nature of
1020 the conduct giving rise to the indefinite suspension may be considered in deciding to recognize
1021 the student/campus organization. See section 7.
- 1022 3. **Long Term Limitation on Activity or Access:** A requirement that the student/campus
1023 organization be limited in or excluded from participation in an extracurricular activity, club or

(*The July 29, 2016, update replaced gender-specific language.)

1024 organization for a period of more than seven months. Access to university facilities and premises
1025 may be limited or denied.
1026 4. **Officer or Member Sanctions:** As a condition of any sanction imposed on a student/campus
1027 organization, the organization may be required to: remove or suspend from office any officer,
1028 prohibit identified members from becoming officers and/or remove or suspend identified
1029 members.

1030 **5.7.10 Actions of Dean of Students**

1031 In reaching a final decision, the Dean of Students may:

- 1032 A. Consult with the SCHB in determining whether to accept or reject its recommendation;
- 1033 B. Ask the SCHB to reopen the case and consider additional matters;
- 1034 C. Accept the recommendation;
- 1035 D. Reject the recommendation and find the student or student/campus organization responsible or not
1036 responsible; or
- 1037 E. If there is a finding that the student or student/campus organization has violated the Student
1038 Conduct Code or rules governing a student/campus organization, modify the recommended
1039 sanction.

1040 Before the Dean of Students chooses not to follow an SCHB recommendation, the Dean must consult with
1041 the SCHB chair regarding the change, and provide an explanation in the final decision with reasons
1042 supporting the modification of the SCHB recommendation.

1043 **5.7.11 Notification of Final Results**

1044 The Dean of Students will notify in writing the accused, the SCHB, the OSC and appropriate university
1045 administrators of the result within seven business days of the final decision. The Dean of Students Office
1046 will notify any complainant of the final result at the same time as the accused student is notified.

1047 **5.7.12 Option for Administrative Procedure Act (APA) Hearing**

- 1048 A. In order to assure compliance with the Iowa Administrative Procedure Act (Iowa Code Chapter), in
1049 Level 1 cases when the OSC is seeking a sanction of Expulsion or Suspension, ISU provides the
1050 option for students or student/campus organizations to have their case heard by an administrative
1051 law judge under the procedures of Iowa Code §17A.11-16 and 681 IAC §20. Students will be
1052 advised of this right in the Formal Complaint. Students or student/campus organizations must make
1053 the election within five business days of receiving the formal complaint. Otherwise, they are deemed
1054 to have waived their right to an APA hearing.
- 1055 B. In APA hearings, the university may elect to have a member of its legal staff present the case to the
1056 administrative law judge. A complainant in a matter involving a violation of the Sexual Misconduct
1057 policy shall have the same rights as an accused student during the presentation of the case before
1058 an administrative law judge.

1059

1060

(*The July 29, 2016, update replaced gender-specific language.)

1061 **5.8 Procedures and Sanctions in Level 2 Cases**

1062	<u>5.8.1 Assignment of Level 2 Cases</u>
1063	<u>5.8.2 Right to Presence of Advisors</u>
1064	<u>5.8.3 Administrative Hearings</u>
1065	<u>5.8.4 Sanctions in Administrative Hearings</u>
1066	<u>5.8.5 Notification of the Result of Administrative Hearings</u>

1067
1068 **5.8.1 Assignment of Level 2 Cases**

1069 If the OSC Administrator determines the case is of Level 2 classification, it will be referred to the RSC
1070 Coordinator, if it involves a university housing issue; or to an OSC administrative hearing. For all cases the
1071 OSC Administrator has the discretion to refer the case to the SCHB for adjudication. The formal complaint
1072 will be sent to the student or student/campus organization at least four business days before the date of
1073 the hearing.

1074 **5.8.2 Right to Presence of Advisors**

1075 Any two persons from within the university community (faculty, staff, student) or outside the university
1076 community may advise the accused student or student/campus organization. Complainants/witnesses to a
1077 proceeding also have the same right to the presence of advisors. University hearings are not court
1078 proceedings.

1079 A. The advisor may:

- 1080 1. Advise the students on the preparation and presentation of the case;
- 1081 2. Accompany the students to all judicial hearings; and
- 1082 3. Advise the students in preparation and presentation of any appeal.

1083 B. The advisor may not:

- 1084 1. Present any part of the case for the students or student/campus organization. However, a
1085 student with a disability affecting communication or a student who cannot effectively
1086 communicate in the English language may seek a reasonable accommodation from the chair of
1087 the assigned SCHB hearing board to allow an advisor or interpreter to present or translate the
1088 case for the student;
- 1089 2. Directly examine or cross examine witnesses; or
- 1090 3. Disrupt or delay the proceedings.

1091 C. Advisors not complying with university hearing procedures may be removed from the judicial
1092 proceedings.

1093 **5.8.3 Administrative Hearings**

1094 An administrative hearing is a meeting for the accused student or student/campus organization to meet
1095 with a representative of the OSC for the purpose of determining whether the accused student or
1096 student/campus organization is responsible or not responsible for violations contained in the formal
1097 complaint. At an administrative hearing involving Level 2 charges, the student or student/campus
1098 organization is informed of the evidence supporting the charges. The student or student/campus
1099 organization has a reasonable opportunity to make a statement and respond on their behalf to the charges.
1100 Upon request, the complainant shall have the right to be present and have substantially the same
1101 opportunity to present at the administrative hearing. The complainant may also participate by remote
1102 method such as telephone conference, or participate solely by providing a written statement.

(*The July 29, 2016, update replaced gender-specific language.)

1103 If the student or student/campus organization does not take responsibility for an alleged conduct violation,
 1104 the administrative hearing officer, or the SCHB will make a determination whether the student or
 1105 student/campus organization has committed a violation and, if so, may impose or recommend the
 1106 sanctions indicated below. The case shall be dismissed or recommended for dismissal if the administrative
 1107 hearing officer or hearing board determines, after considering the information presented, that the evidence
 1108 available does not indicate by a preponderance of the evidence that the alleged violation occurred.

1109 If no response to the notice is made, or if a meeting has not been requested within three business days,
 1110 the RSC Coordinator or the OSC Administrator may take the proposed action.

1111 **5.8.4 Sanctions in Administrative Hearings**

1112 **A. All Level 2 cases:** The following sanctions may be imposed in all Level 2 cases.

- 1113 1. **Disciplinary Reprimand:** An official warning followed by the written notice to the student or
 1114 student organization that their conduct is in violation of university rules and regulations.
- 1115 2. **Conduct Probation/Conditions:** A more severe sanction than a disciplinary reprimand. It is a
 1116 period of review during which the student or student organization must demonstrate the ability to
 1117 comply with university rules, regulations, and other requirements stipulated for the probation
 1118 period. While under conduct probation, a student may be disqualified from serving as an officer of
 1119 a student or campus organization or as a member of a university committee or council. The OSC
 1120 Administrator or the RSC Coordinator may impose reasonable conditions upon probation which
 1121 may include limitations on activity or access to university facilities for a period of seven months or
 1122 less.
- 1123 3. **Education:** A requirement to participate in some project, class or other activity that is relevant to
 1124 the nature of the offense and appropriate for the violation.
- 1125 4. **Restitution:** A requirement to pay the cost of property damage or medical expenses to another
 1126 student or student organization incurred during conduct violation, or to make other appropriate
 1127 restitution, so long as costs do not exceed \$1000.

1128 **B. Administrative Hearings before the OSC and the SCHB:** In addition to sanctions that may be
 1129 imposed in all Level 2 cases, in an OSC administrative hearing, or a referral case to the SCHB, the
 1130 following sanction may be imposed:

- 1131 1. **Deferred Suspension:** A suspension, but which is deferred subject to a definite or indefinite
 1132 period of observation and review. If a student is found responsible for further violation of the
 1133 Student Conduct Code or an order of a judiciary body, suspension may be recommended to the
 1134 Dean of Students Office. While under deferred suspension, a student may be disqualified from
 1135 serving as an officer of a student or campus organization or as a member of a university
 1136 committee or council. The OSC Administrator may impose reasonable conditions upon deferral,
 1137 which may include limitations on activity or access to university facilities for a period of the
 1138 deferred suspension.

1139 **C. Residence Cases:** In addition to sanctions which may be imposed in all Level 2 cases, in a
 1140 residence case by RSC administrative hearing, the following sanctions may be imposed:

- 1141 1. **Removal from university housing:** A resident may be removed from a residence hall or
 1142 apartment. The student shall have a maximum of ten days to move. The student's access to
 1143 specific living or dining areas may be restricted as part of the sanction. If the decision is
 1144 appealed, the Dean of Students shall have power to waive or enforce removal while the appeal is

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1145 pending. The student's original room or apartment will not be reassigned until the completion of
1146 the appeals to the Dean of Students.

1147 2. Sanctions provided under the Residence Contract: Sanctions outlined in the Department of
1148 Residence Contract may be levied in a residence case, including sanctions for violation of
1149 disciplinary regulations duly adopted by the applicable residence government.

1150 D. **Greek Cases:** In addition to sanctions which may be imposed in all Level 2 cases, in a case before
1151 the OSC administrative hearing, the administrative hearing officer may impose sanctions permitted
1152 by the duly adopted rules of the governing Greek council.

1153 **5.8.5 Notification of the Result of Administrative Hearings**

1154 The OSC Administrator or the RSC Coordinator will send notice confirming the decision to the accused
1155 within five business days of the hearing and will also inform the appropriate university officials and the
1156 complainant (if any) of the decision.

1157

1158 **5.9 Procedures during a Study Abroad Program**

1159 A Study Abroad Program is an academic program providing the student involved with an opportunity to
1160 pursue academic study for credit outside the United States. Students are expected to take advantage of
1161 the cultural opportunities involved and are responsible for their behavior during the program. The Study
1162 Abroad Center has developed rules and regulations that all participants are required to follow while
1163 studying in a foreign country. Students who fail to abide by the rules and regulations of the Study Abroad
1164 Center may be withdrawn from the Study Abroad Program and sent back to the United States at their own
1165 expense pursuant to procedures developed by the Study Abroad Center. In addition, if the student's
1166 conduct is also in violation of the university Student Conduct Code, disciplinary action may be undertaken
1167 by the OSC.

1168

1169 **6. Appeals**

1170 Failure to appeal or comply with appeal procedures will render the original decision final and conclusive. In
1171 the event of special circumstances, an extension in time may be requested by submitting a written request
1172 to the Appellate Officer stating good reasons for the request for additional time. Normally, such requests
1173 will be granted if the request is filed before the deadline.

1174 All evidence is to be presented to the administrative hearing officer or specific hearing board assigned to
1175 hear the case. Evidence may not be presented during an appeal without special permission of the person
1176 hearing the appeal. See section 6.8.

1177 [6.1 Who May Appeal](#)
1178 [6.2 Time for Filing an Appeal](#)
1179 [6.3 Notice of Appeal](#)
1180 [6.4 Written Statement](#)
1181 [6.5 Access to Record](#)
1182 [6.6 OSC Statement: Transmittal of the Record](#)
1183 [6.7 Supplemental Statement](#)
1184 [6.8 Person to Hear Appeals](#)
1185 [6.9 Status during Appeal](#)
1186 [6.10 Procedure: Decision](#)
1187 [6.11 Review of Final Decision](#)

(*The July 29, 2016, update replaced gender-specific language.)

1188

1189 **6.1 Who May Appeal**

1190 A student or student/campus organization found responsible with having violated the Student Conduct
1191 Code has a right to appeal that decision. The complainant in a case involving a violation of the Sexual
1192 Misconduct policy shall also have the right to appeal a decision that concludes a matter such as a
1193 determination of no responsibility or that a Formal Charge should not be filed by OSC. Neither the accused
1194 student nor the complainant shall have the right to appeal the findings and conclusions contained in the
1195 investigative report of the Office of Equal Opportunity separate from the student disciplinary case itself.
1196 The party filing an appeal shall be identified as the appellant.

1197

1198 **6.2 Time for Filing an Appeal**

1199 An appeal must be filed within five business days after notification of the student, the student/campus
1200 organization, or the complainant of the decision from which the appeal is taken.

1201

1202 **6.3 Notice of Appeal**

1203 A notice of appeal must be filed with the person responsible for hearing the appeal. The appellant may
1204 appeal the lower judiciary decision based on one or more of the following reasons:

- 1205 A. The student's or student/campus organization's rights were substantially violated in the hearing
1206 process;
- 1207 B. The procedures used or the decision reached is contrary to law or university policy;
- 1208 C. There was not substantial evidence to support the conclusions reached;
- 1209 D. There is new material evidence that could not have been discovered at the time of the hearing;
- 1210 E. The sanctions imposed were not supported by the evidence or not appropriate for the violation; or
- 1211 F. The decision by the OSC to not file a formal complaint in a matter alleging a violation of the Sexual
1212 Misconduct policy is not supported by the evidence.

1213 The notice of appeal must state the grounds for appeal from the list identified above. In addition, the
1214 appellant must also provide the written statement as described in section 6.4.

1215

1216 **6.4 Written Statement**

1217 Within five business days after filing the notice of appeal, if the appellant has not included the written
1218 statement in the notice of appeal, the appellant must present a written statement supporting the reasons
1219 for the appeal. A copy of the written statement must be filed with the OSC at the same time. The OSC shall
1220 provide a copy of the appellant's written statement to the party who has not appealed the decision.

1221 It is recommended that the written statement contain the following information: grounds for appeal,
1222 arguments and references to evidence presented during the hearing. In case the appeal is based upon

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1223 new evidence, the written statement should contain a statement of the new evidence, together with a
 1224 statement as to why the information could not have been discovered at the time of the hearing.

1225

1226 **6.5 Access to Record**

1227 For purposes of appeal, the appellant and, in the event of an appeal, the party who has not appealed may
 1228 review at the OSC a copy of the official recording and documents used during the hearing. Reviewing
 1229 parties will be granted an ample opportunity to review the recording and the documents, but will not be
 1230 permitted to take copies of them.

1231

1232 **6.6 OSC Statement: Transmittal of the Record**

1233 The OSC will provide a written statement in response to the appellant's written statement within seven
 1234 business days of its filing. A copy of the OSC statement must be sent to the appellant and the party who
 1235 has not appealed at the same time it is filed.

1236 The OSC will transmit the record of the hearing to the person hearing the appeal at the same time it files
 1237 the response.

1238

1239 **6.7 Supplemental Statement**

1240 The appellant or party who has not appealed may provide a supplemental statement within three business
 1241 days of filing of the OSC Response.

1242

1243 **6.8 Person to Hear Appeals**

1244 The following chart identifies the Appellate Officer assigned to hear appeals from the various administrative
 1245 decisions or hearings under the university Student Disciplinary Regulations.

Decision made by	May be appealed to (Appellate Officer)
Administrative hearing officer (OSC representative or RSC Coordinator)	Dean of Students
RSC Coordinator (after Residence Area Directors)	Dean of Students
OSC Administrator (after decision not to file a formal complaint as indicated in section 6.3.F)	Dean of Students
Dean of Students (after SCHB hearing, Interim Suspension or the above Appeals)	Senior Vice President for Student Affairs

1246

1247

1248

(*The July 29, 2016, update replaced gender-specific language.)

1249 **6.9 Status during Appeal**

1250 Any sanction imposed as a result of a hearing with a lower board will remain in effect during the process of
1251 appeal. The Dean of Students and the Senior Vice President for Student Affairs have the authority, under
1252 extenuating circumstances, to defer the imposed sanction while an appeal is in process. Granting of
1253 deferral may be conditioned upon agreement to reasonable conditions.

1254

1255 **6.10 Procedure: Decision**

1256 After receiving all written statements, the Appellate Officer may rule, or may ask for the parties to present
1257 short oral arguments. The Appellate Officer may do one of the following:

- 1258 A. Affirm the decision below.
1259 B. Reverse the decision below by finding that no violation of the Student Conduct Code occurred.
1260 C. Remand the case for a new hearing.
1261 D. Remand the case for consideration of new evidence.
1262 E. Change the sanction(s).

1263 The decision of the Appellate Officer will be based upon the record and the materials submitted by the
1264 parties. The decision and the reasons for the decision will be sent to the accused student or
1265 student/campus organization, the complainant, the OSC, the hearing board chair, and the Dean of
1266 Students. The decision of the Appellate Officer shall be the final decision of the university, subject to
1267 review as provided in section 6.11.

1268

1269 **6.11 Review of Final Decision**

1270 **6.11.1 President's Discretionary Review**

1271 A student, student/campus organization, or the complainant may request that the President review the final
1272 decision of the Appellate Officer. The President has discretionary authority to grant or deny the request.
1273 See section 3.2. When the President decides to review the decision of the Appellate Officer, the
1274 President's decision becomes the final decision of the university.

1275 **6.11.2 Board of Regents**

1276 The Board of Regents may review the final decision of the university. See section 3.1. Any review by the
1277 Board of Regents will be determined under the rules and procedures established by that agency.

1278 **6.11.3 Judicial Review**

1279 A final decision by the Board of Regents may be reviewed by an Iowa District Court as provided in the
1280 Iowa Administrative Procedure Act. See Iowa Code Chapter 17A.

1281

1282

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1283 7. Reinstatement

1284 Students or student/campus organizations who are suspended for a defined period with conditions on
 1285 return, or who are suspended indefinitely, must apply for reinstatement. See sections 5.7.9.A.4-5 and
 1286 5.7.9.B.1-2, above. Applications for reinstatement must be filed on a form provided by the Dean of
 1287 Students Office. To assure sufficient time for review, the application should be filed at least two months in
 1288 advance of the requested date of return.

1289 A. In order to be reinstated, the student must:

- 1290 1. Follow university procedures for reentry, if the student has been absent for a period of twelve
- 1291 months or more, (See Iowa State University Catalog, "Returning/Reentry");
- 1292 2. File a petition for reinstatement with the Dean of Students indicating the basis for the request,
- 1293 including evidence of compliance with any conditions for reinstatement, if any;
- 1294 3. Supply evidence of good behavior and ability to make academic progress, such as statements
- 1295 from employers, educational institutions and/or counselors; and
- 1296 4. Supply documentation as requested by the Dean of Students supporting reinstatement.

1297 B. In order to be reinstated, the student/campus organization must:

- 1298 1. File a petition for reinstatement with the Dean of Students indicating the basis for the request,
- 1299 including evidence of compliance with any conditions for reinstatement, if any; and
- 1300 2. Supply documentation as requested by the Dean of Students supporting reinstatement.

1301 C. The Dean of Students will:

- 1302 1. Review the information provided by the student or student/campus organization;
- 1303 2. Review the student's or student/campus organization's disciplinary and academic records;
- 1304 3. Request a statement from any person who filed the complaint leading to suspension, if that
- 1305 person is still a member of the university community, and consider any such statement; and
- 1306 4. Issue a determination as to whether the student or student/campus organization will be
- 1307 reinstated. The determination of the Dean of Students may be appealed to the Senior Vice
- 1308 President for Student Affairs.

1309

1310 8. Records of Disciplinary Actions

1311 Student disciplinary case records will be filed in the student's or student organization's disciplinary file in
 1312 the OSC consisting of a statement of charges, summary of the information presented at the hearing,
 1313 findings and sanctions of the administrative hearing officer or hearing body, records of appeals and
 1314 rationale for the decisions. Student disciplinary case records also include the correspondence, evidence
 1315 and testimony presented, including those of the complainant and witnesses. Records will be preserved
 1316 during the pendency of any related legal proceedings.

1317 Student disciplinary case records are normally maintained in the Dean of Students Office for a period of
 1318 seven years, after which the file records may be purged. Records may be maintained for a longer time at
 1319 the discretion of the university except that the recording of any hearings may be destroyed one semester
 1320 following the exhaustion of all appeals.

1321 Student disciplinary case records are confidential. However, when the student is expelled, suspended, or
 1322 their admission is revoked, a notation will appear on the academic transcript that the student has been

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1323 dropped due to disciplinary action and is not eligible to enroll. Student disciplinary case records may be
1324 required to be transmitted to the Board of Regents for purposes of appeal, or, in the case of legal action, to
1325 the courts or to the parties in litigation. When confidential information is transmitted to the courts or parties
1326 in litigation, the university will request that all sensitive information of witnesses and complainants be kept
1327 confidential under a protective order unless any individual has explicitly or implicitly waived confidentiality.

1328 Persons desiring access to student disciplinary case records must secure a written authorization from the
1329 student whose record is requested. Because student disciplinary case records may contain records of
1330 persons other than the individual authorizing access, records relating to such other persons will be denied
1331 or redacted in a manner sufficient to prevent identification of the other person.

1332 Records of violations by student/campus organizations may be transmitted for inclusion in the
1333 organization's file in the Campus Organizations Office.

1334

1335 **9. Amendment**

1336 The university Student Disciplinary Regulations may be amended through the routine decision-making
1337 process of the university and appropriate notification to the university community through the Iowa State
1338 Daily.

1339 Any organizations or members of the university community may propose amendments by providing a
1340 written proposal to the Dean of Students.

1341 At least every five years, and sooner when the Dean of Students determines it is necessary, a committee
1342 shall be established by the Senior Vice President of Student Affairs to review the current Student
1343 Disciplinary Regulations and recommend any amendments to the university community. Amendments to
1344 the university Student Disciplinary Regulations will not be effective until approved by the President and
1345 published in the Iowa State Daily.

1346 This amendment procedure shall not be construed to supersede the Board of Regents policy that places
1347 authority in the President to declare a state of emergency and sanction any person who is found to have
1348 violated a presidential order concerning a declared state of emergency.

1349

1350 **Resources**

1351 **Links**

- 1352 • [Academic Dishonesty – Iowa State University Catalog](#)
- 1353 • [Acceptable Use of Information Technology Resources](#)
- 1354 • [Alcohol Use – Students and Student Organizations](#)
- 1355 • [Alcohol, Drugs, and Other Intoxicants](#)
- 1356 • [Appeals to the Board of Regents \(Regents Policy Manual, Chapter 10\)](#)
- 1357 • [Department of Residence](#)
- 1358 • [Discrimination and Harassment Policy](#)

(*The July 29, 2016, update replaced gender-specific language.)

- 1359 • [Explanation of Rights, Resources, and Procedures for Victims and Survivors \[PDF\]](#)
- 1360 • [Interim or Medical Withdrawal - Iowa State University Catalog](#)
- 1361 • [Iowa Administrative Code \(IAC\)](#)
- 1362 • [Iowa Code \(Iowa Law\)](#)
- 1363 • [Iowa State University Catalog](#)
- 1364 • [Research Misconduct Policy](#)
- 1365 • [Returning/Reentry - Iowa State University Catalog](#)
- 1366 • [Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students](#)
- 1367 • [Study Abroad – Code of Conduct \[PDF\]](#)
- 1368 • [Study Abroad – Outgoing Students \(See “Must Reads”\)](#)

Exhibit 3

----- Forwarded message -----

From: **Office of Equal Opportunity [EO]** <eooffice@iastate.edu>

Date: Thu, Aug 4, 2016 at 8:26 AM

Subject: Action required: Title IX training program

To:

Dear Iowa State University Student:

Iowa State University is committed to being a place where our students can succeed and thrive in a community that is free of discrimination, harassment and intimidation. To help ensure everyone understands and follows [our non-discrimination policies](#) and procedures, we are requiring all students and staff to complete an online training program.

This training is an **annual requirement**. As long as you are a student (on and off campus, full-time, and part-time) at Iowa State University, you will be asked to renew your training in early August every year you are enrolled. *Please note: if you completed this training over the summer (July 2016), you have fulfilled your Title IX online requirement and will not have to take it again until August 1, 2017. You may, however, be asked to take the student employee training should you become employed by the university during the academic year.*

To access the online training, please logon (using your last name and university ID number) here: <https://slate.workplaceanswers.com/iowast>

You will be prompted to take one or both of the following online courses:

- **Title IX Awareness, Violence Prevention and Campus SaVE for Students** (for all students on and off campus, full-time, and part-time)
- **Unlawful Harassment Prevention for Staff** (for student employees only)

Each course is approximately 45 minutes in duration. Reminder emails will come from the Office of Equal Opportunity at training@workplaceanswers.com until you have completed your course/s.

For more information about Title IX requirements and the Campus Sexual Violence Act ("SaVE Act"), please visit the following sites:

Campus Save

<http://campussaveact.org/>

<http://www.acenet.edu/news-room/Documents/VAWA-Summary.pdf>

Title IX

<http://www.eoc.iastate.edu/november-30th---title-ix-coordinator>

https://www.whitehouse.gov/sites/default/files/fact_sheet_know_your_rights.pdf

Thank you in advance for completing the required annual training and for doing your part to ensure that Iowa State remains a welcoming environment that is free of harassment and discrimination. If you have any questions regarding the training material, or if you experience any technical issues, please contact the Office of Equal Opportunity by phone at [\(515\) 294-7612](tel:5152947612) or by email at eooffice@iastate.edu.

Sincerely,

Margo R. Foreman

Director of Equal Opportunity, Iowa State University

Exhibit 4

Title IX Awareness and Violence Prevention for Higher Education Students

IOWA STATE
UNIVERSITY

Policy

Ask

Contents

Glossary

My Training

POLICY ACCEPTANCE

1
STEP

[Review Iowa State University's SaVE Act policy](#)

2
STEP

By recording my acceptance below, I, **Robert Dunn**, acknowledge that I have received training regarding Iowa State University's SaVE Act policy and I certify that I have read, understood and will comply with the SaVE Act policy.

3
STEP

[Record Your Acceptance](#)

Exhibit 5

Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students

Effective: March 30, 2009

Updated/Revised: June 19, 2013

Contact: [Dean of Students Office - Division of Student Affairs](#)

Policy Contents	Students Who May Be Victims of Sexual Misconduct
<p>► INTRODUCTION</p> <p>► POLICY STATEMENT</p> <p>Policy Scope and Jurisdiction</p> <p>Confidentiality</p> <p>Sexual Misconduct</p> <ul style="list-style-type: none"> •Sexual Assault •Sexual Exploitation •Sexual Harassment <p>Reporting Sexual Misconduct, Sexual Assault, and Sexual Harassment</p> <p>Immediate Actions by the University</p> <p>Retaliation</p> <p>False Complaints</p> <p>Resources and Services for Students</p> <ul style="list-style-type: none"> •Confidential Advocacy and Support •Campus Resources •Community Resources <p>► RESOURCE LINKS</p>	<p>IF YOU OR SOMEONE YOU KNOW MAY BE A VICTIM OF SEXUAL MISCONDUCT OR ASSAULT, START HERE:</p> <p>Go to the Sexual Misconduct & Sexual Assault website for information and resources regarding sexual misconduct or assault.</p> <p>You are strongly encouraged to seek immediate assistance through the resources on that site or in this policy.</p> <p>Assistance can be obtained 24 hours a day, 7 days a week from:</p> <p>ACCESS (Assault Care Center Extending Shelter and Support) 800-203-3488 for a confidential advocate</p> <p>Mary Greeley Medical Center 515-239-2011 for a confidential health examination or services</p> <p>ISU Police 911 from a campus phone or 515-294-4428</p> <p>Ames Police 911 or 515-239-5133</p> <p>During business hours, you may also seek assistance from the ISU Dean of Students Office 515-294-1020.</p> <hr/> <p>IF ISU FACULTY OR STAFF LEARNS THAT A STUDENT MAY BE THE VICTIM OF SEXUAL MISCONDUCT OR ASSAULT, CLICK HERE TO FIND OUT YOUR RESPONSIBILITIES AND HOW YOU CAN ASSIST.</p>

Introduction

Iowa State University strives to create a respectful, safe, and non-threatening environment for its students. This policy sets forth the resources available to students, describes prohibited conduct, and establishes procedures for responding to sexual misconduct incidents that include sexual assault, sexual harassment and other unwelcome behaviors as explained below. While grounded in Iowa criminal law and consistent with the Board of Regents, State of Iowa, "Sexual Misconduct Guiding Principles," this policy governs criminal behavior, as well as other behavior which, although not a crime, is unacceptable and not tolerated in an educational environment.

Policy Statement

The university prohibits sexual misconduct in any form, including sexual assault or sexual abuse, sexual harassment, and other forms of nonconsensual sexual conduct, all of which can be forms of sexual discrimination. Students should be able to live, study, and work in an environment free from sexual misconduct.

It is the position of the university that sexual misconduct in any form will not be excused or tolerated. Criminal, civil, and university disciplinary processes will be available to a student with a complaint and enforced against a person found to have engaged in the behavior. The university is committed to fair and prompt procedures to investigate and adjudicate reports of sexual misconduct and to the education of the university community about the importance of responding to all forms of sexual misconduct. Special emphasis is placed on the rights, needs, and privacy of the student with a complaint, as well as the rights of the accused. At the same time, the university adheres to all federal, state and local requirements for intervention and crime reporting related to sexual misconduct.

This policy identifies prohibited behavior for two important reasons: first, so that victims of prohibited behavior can easily recognize what happened to them as misconduct and comfortably seek assistance; and second, so that all students are aware of these expectations and can make appropriate decisions, knowing there will be consequences for violating this policy.

The university will make this policy and educational opportunities readily available to all students and other members of the university community. Specifically, the university provides periodic education to students regarding sexual misconduct. The ISU Division of Student Affairs, ISU Police, the Office of Equal Opportunity, and community agencies offer sexual misconduct education and information upon request. The university encourages students and student organizations to take advantage of those educational opportunities and to learn about this policy. Creating a respectful, safe and non-threatening environment is the responsibility of all members of the university community.

Policy Scope and Jurisdiction

Scope

This policy covers all Iowa State University students, and in particular students who:

- Are victims of any form of sexual misconduct, including sexual assault and sexual harassment, by any other person (student, employee, or others outside of the university community)
- Are accused of engaging in behavior prohibited by this policy

As provided by the Student Disciplinary Regulations, section 4.1.8, the term "student" includes undergraduate, graduate, and professional students, as well as student organizations and persons who have been admitted, though not yet in attendance. Employees, including employees who may be taking classes, are persons whose primary relationship with the university is for employment and are, therefore, not covered by this policy, although are covered by other university policies and resources concerning employee misconduct.

Jurisdiction

According to the university Student Disciplinary Regulations, sections 4.1.2 and 4.1.3, this policy shall cover both on-campus and off-campus conduct, as those terms are described below.

On-Campus Violations: The campus includes the geographic confines of the university, including its land, institutional roads and buildings, its leased premises, common areas at leased premises, the property, facilities and leased premises of organizations affiliated with the university, such as the Memorial Union, university housing, and university-recognized housing. University housing includes all types of university residence housing such as halls and apartments. University-recognized housing includes fraternity and sorority chapter dwellings.

Off-Campus Violations: Students should be aware that off campus violations that affect a clear and distinct interest of the university are subject to disciplinary sanctions. As examples, sexual misconduct and harassment are within the university's interests when the behavior:

- Involves conduct directed at or by a university student or other member of the university community (e.g., private house party, outside employment);
- Occurs during university-sponsored events (e.g., field trips, social or educational functions, university-related travel, student recruitment activities, internships and service learning experiences);

- Occurs during the events of organizations affiliated with the university, including the events of student organizations;
 - Occurs during a Study Abroad Program or other international travel; or
 - Poses a disruption or threat to the university community.
-

Confidentiality

Iowa State University is committed to creating an environment that encourages students to come forward if they have experienced any form of sexual misconduct. The university will work to safeguard the identities and privacy of the students who seek help or who report sexual misconduct. However, it is important that students understand the limits on confidentiality of individuals whom they may contact for such assistance. Different people, depending on their positions, have different obligations with regard to confidentiality.

Under Iowa law, communications with some individuals are confidential. Students should always confirm whether confidentiality applies to the communication. Generally, confidentiality applies when a student seeks services from the following persons:

- ACCESS advocate
- 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 counselor

Any other university employee cannot guarantee complete confidentiality. Information is disclosed only to select officials who have an essential need to know in order to carry out their university responsibilities. As is the case with any educational institution, the university must balance the needs of the individual student with its obligation to protect the safety and well being of the community at large. Therefore, depending on the seriousness of the alleged incident, further action may be necessary, including a campus security alert. The alert, however, would never contain any information identifying the student who brought the complaint.

Sexual Misconduct

Sexual misconduct is a broad term encompassing any non-consensual behavior of a sexual nature that is committed by force or intimidation, or that is otherwise unwelcome. The term includes sexual assault, sexual exploitation, sexual intimidation, and sexual harassment as those behaviors are described later in this section.

Sexual intimacy requires that all participants consent to the activity. Consent between two or more people is defined as an affirmative agreement—through clear actions or words—to engage in sexual activity. The person giving the consent must act freely, voluntarily, and with an understanding of his or her actions when giving the consent. Lack of protest or resistance does not constitute consent, nor does silence mean consent has been given. Relying solely on non-verbal communication can lead to misunderstanding. Persons who want to engage in the sexual activity are responsible for obtaining consent—it should never be assumed. A prior relationship or prior sexual activity is not sufficient to demonstrate consent.

Consent must be present throughout the sexual activity—at any time, a participant can communicate that he or she no longer consents to continuing the activity. If there is confusion as to whether anyone has consented or continues to consent to sexual activity, it is essential that the participants stop the activity until the confusion can be clearly resolved.

In addition, under Iowa law the following people are unable to give consent:

- Persons who are asleep or unconscious
- Persons who are incapacitated due to the influence of drugs, alcohol, or medication (see "Resource Links" below for Iowa Code Section 709.1A, Incapacitation)
- Persons who are unable to communicate consent due to a mental or physical condition

- Generally, minors under the age of 16 (see "Resource Links" below for Iowa Code Section 709.4 regarding minors giving consent to sexual activity)

Sexual misconduct may vary in its severity and consists of a range of behavior or attempted behavior. It can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can occur between members of the same or different sex and can also occur while individuals are fully clothed. Sexual misconduct includes, but is not limited to, the following examples of prohibited conduct:

Sexual Assault

Sexual assault is an extreme form of sexual misconduct 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. In Iowa, the terms "rape" and "sexual assault" fall under the legal definition of "sexual abuse," which includes any sex act done by force or against the will of another. Examples of sexual assault under this policy include, but are not limited to the following behaviors or attempted behaviors when consent is not present:

- Sexual intercourse (vaginal, anal, oral)
- Oral sex
- Penetration of an orifice (anal, vaginal, oral) with the penis, finger, or other object
- Unwanted touching of the genitals, buttocks, breast, or other body part
- Coercion or force to make someone else touch one's genitals, buttocks, breast, or other body part
- Inducing consent through drugs or alcohol
- Engaging in sexual activity with a person who is unable to provide consent due to the influence of drugs, alcohol, or other condition

Sexual Exploitation

Sexual exploitation involves taking non-consensual sexual advantage of another person, even though the behavior might not constitute one of the other sexual misconduct offenses. Examples can include, but are not limited to the following behaviors:

- Distribution or publication of sexual or intimate information about another person without consent
- Electronic recording, photographing, or transmitting sexual or intimate utterances, sounds, or images without knowledge and consent of all parties
- Engaging in indecent exposure
- Sexual intimidation - Sexual intimidation is an implied or actual threat to commit a sex act against another person, or behavior used to coerce participation in a sex act
- Stalking - Stalking may take many forms including persistent calling, texting, or Internet posting, as well as physical stalking, when the context of the communication or the nature of the stalking is of a sexual or intimate nature
- Voyeurism - Voyeurism involves both secretive observation of another's sexual activity or secretive observation of another for personal sexual pleasure

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 that meets either of the following criteria:

- Submission or consent to the behavior is believed to carry consequences for the student's education or employment.
- Examples can include pressure to engage in sexual behavior to further the student's education or employment; real or perceived threat that rejecting the behavior would carry a negative consequence for the student.

- The behavior creates a hostile, intimidating or demeaning environment that is sufficiently severe, pervasive and objectively offensive to substantially interfere with or deny participation in a student's educational activities and benefits or employment opportunities.
- Examples can include persistent efforts to develop a sexual relationship; bullying/cyber-bullying of a sexual nature or for a sexual purpose; unwelcome commentary about an individual's body or sexual activities; unwanted sexual attention; repeated and unwelcome sexually-oriented teasing, joking or flirting; verbal abuse of a sexual nature. Comments or communications could be verbal, written or electronic.

Determination as to whether the alleged conduct constitutes sexual harassment should take into consideration all of the circumstances, including the context in which the alleged incidents occurred.

Reporting Sexual Misconduct, Including Sexual Assault and Sexual Harassment

The university strongly encourages students to report concerns to either or both of the following offices:

- For emergencies, contact 911. For non-emergencies, or if criminal behavior is involved, students are encouraged to contact ISU Police by telephone at 515-294-4428 or in person at room 55, Armory Building. **Contacting ISU Police does not mean you must pursue charges. ISU Police can advise you of your options and can also preserve evidence while you consider your options.**
- To seek assistance and support, or to report misconduct, contact the Dean of Students Office (1010 Student Services Building, 515-294-1020, dso@iastate.edu).
- The Dean of Students Office will make a student services staff member available to a student with a complaint if the student would like assistance throughout any university investigation or adjudication process. This staff member is not an "advocate" as that term is used below (see "Confidential Advocacy and Support"), nor is that staff person a representative who will speak on behalf of the student in any investigatory or adjudication process. Rather, the staff member serves as a point of contact to answer questions and explain processes, make sure the student's expressed needs are being addressed, and join the student in meetings if requested. Because sexual misconduct cases can be difficult for all students involved, the Dean of Students staff will not require or offer mediation, or an arranged meeting between the students, as part of the complaint resolution process.
- Both ISU Police and the Dean of Students Office will notify the Title IX Coordinator of the report. This notification does not require that a student file a disciplinary or judicial complaint.

In all situations, the university's goals are to provide a prompt and effective response and to treat the student who reports misconduct with sensitivity and fairness, while also ensuring the accused individual receives due process if any disciplinary action is to be imposed. In situations where an accused student faces both a disciplinary complaint and a criminal charge, the university reserves the right to move forward with the disciplinary and adjudication processes at the same time the criminal process is proceeding.

For complaints against other students, the Student Disciplinary Regulations shall govern the complaint, investigation, and adjudication process through the Office of Judicial Affairs. See the following sections of the [Student Disciplinary Regulations](#):

- Section 2.1 - "Student Rights and Responsibilities"
- Section 2.2 - "Complainant Rights and Responsibilities"
- Section 5 - "Process"

For complaints against faculty, adjudication may ultimately occur through the Office of the Senior Vice President and Provost. For complaints against faculty, the Faculty Handbook will govern the process.

For complaints against staff, the investigation will ultimately occur through the Office of Equal Opportunity. For complaints against staff, the Discrimination and Harassment policy will govern the process.

In addition to supporting individual students affected by sexual misconduct, the university takes all incidents seriously and has a responsibility to address misconduct. When sexual misconduct involves criminal behavior, students are strongly encouraged to report the situation to law enforcement. The Dean of Students Office will assist the student in notifying ISU Police or local law enforcement if the student so requests. An incident can be reported even if the student has not decided whether to take legal action. Nonetheless, students are always free to report and are

encouraged to share instances of such behavior with the Dean of Students Office (contact information below) regardless of whether or not they choose to press formal criminal charges with law enforcement.

Students are strongly encouraged to report incidents of, or share information about, sexual misconduct as soon as possible. This is true even if the student with a complaint or a witness may have concern that his or her own alcohol or drug use, or other prohibited activity were involved. The Office of Judicial Affairs will not pursue disciplinary violations against a student with a complaint or a witness for his or her improper use of alcohol or drugs if the student is making a good faith report of sexual misconduct.

The university can take action only if the university is made aware of the behavior. If a university administrator becomes aware of a complaint or other violation of this policy, the administrator should bring the information to the Dean of Students Office so that concerns are heard and services can be offered to the affected students.

The university strongly encourages prompt reporting of complaints and information rather than risking any student's well being. Although there is no time limit on the reporting of formal charges with the university, the university may ultimately be unable to adequately investigate if too much time has passed or if the accused student has graduated. Factors that could negatively affect the university's ability to investigate include the loss of physical evidence (e.g., prompt medical examinations are critical to preserving the physical evidence of sexual assault), the potential departure of witnesses, or loss of memory.

In all cases, the Dean of Students strives to respond promptly and effectively by investigating the allegations and addressing the effects of the conduct. Typically investigations can take approximately sixty calendar days following receipt of the complaint. Factors that could impair the timing of the investigation include the complexity and severity of the conduct, the number and availability of witnesses, or the need to identify and acquire physical or other evidence.

Immediate Actions by the University

The Dean of Students Office and ISU Police may take immediate interim actions to protect the safety of the university community, to enable students with complaints and witnesses to continue studies, and to ensure the integrity of an investigation. These actions may include interim suspension of the accused student or no-contact notices between the individuals involved. The Dean of Students Office and ISU Police may also take additional actions, if requested, including but not limited to:

- Modifying class or work schedules
- Making alternate housing arrangements
- Addressing other academic concerns (e.g., absences, assignments, grades, leaves of absence, withdrawal)
- Safety planning

Retaliation

The university prohibits retaliation against an individual for making a complaint of sexual misconduct (including sexual assault and sexual harassment), for resisting such behavior, or for otherwise using or participating in the complaint resolution process. Prohibited behavior includes any form of intimidation, threats, or harassment by the individual accused of misconduct or friends, family or other persons acting in support of or on behalf of that individual. Acts of retaliation are, by themselves, cause for disciplinary action. Concerns of retaliation can be communicated to the Dean of Students Office or the Judicial Affairs staff directly (1010 Student Services Building, 515-294-1020, dso@iastate.edu).

False Complaints

The university also prohibits an individual from knowingly filing a false complaint or making misrepresentations of sexual misconduct (including sexual assault and sexual harassment). However, a complaint made in good faith is not considered false merely because the evidence does not ultimately support the allegation of sexual misconduct or sexual harassment. Acts of knowingly filing false complaints are, by themselves, cause for disciplinary action.

Resources and Services for Students

There are campus and community services available to students even if university or criminal reports are not made. The university strongly encourages students to seek assistance to care for themselves emotionally and physically through confidential crisis intervention, health care, and counseling. As students tend to their health, they should keep in mind that medical examinations are time-sensitive, and are critical in preserving evidence of sexual assault so that options can be considered at a later time.

CONFIDENTIAL ADVOCACY AND SUPPORT

ACCESS (Assault Care Center Extending Shelter and Support): An ACCESS advocate is trained to assist victims of sexual misconduct and can speak with students confidentially as they consider their options. Any communication with an ACCESS advocate is legally protected under Iowa Code Section 915.20, which allows for confidential communications that cannot be disclosed without the student's permission. Although the advocate is not a university employee, the advocate may accompany the student through any university investigation or adjudication process.

Contact information: <http://www.assaultcarecenter.org/>

Trained advocate: 515-292-5378 (29-ALERT)

Trained advocate 24 hours/day: 800-203-3488

General information: 515-292-0500

SART (Story County Sexual Assault Response Team): SART consists of specially trained professionals who provide a community coordinated response to sexual assaults. Members of SART represent the fields of law enforcement, health care, advocacy/counseling, and prosecution. SART identifies the barriers that keep sexual assault victims/survivors from coming forward and works to overcome those barriers through its sensitive, survivor-centered approach. In individual cases, a three-person team consisting of a police officer, sexual assault nurse examiner, and advocate respond to sexual assault reports, offering their services but leaving all decisions to the victim/survivor. SART strives to provide the first response to all sexual assaults in Story County to ensure a consistent, compassionate, and professional initial contact for victims.

Contact information: <http://www.police.iastate.edu/sart> to file an online report with SART

515-292-5378 (or 29-ALERT) to discuss more options

Email: sart@iastate.edu

CAMPUS RESOURCES

ISU Student Counseling Services (SCS): Students can meet with a confidential mental health counselor.

Contact information: <http://www.public.iastate.edu/~stdtcouns/>

3rd Floor, Student Services Building

515-294-5056 - Let the receptionist know you are requesting a same-day crisis appointment.

If a student would like to talk with someone after hours or on a weekend/holiday when Student Counseling Services is not open, the student may call the **Richmond Center** (community mental health services) at 515-232-5811 (during business hours) or 800-830-7009 (24 hours/day).

ISU Thielen Student Health Center: Students can meet with a confidential health care provider.

Contact information: <http://www.health.iastate.edu/about/contact/>

Corner of Union Drive and Sheldon Avenue on the ISU campus

515-294-5801

Dean of Students Office: The office staff can assist a student in filing a report or, if the student is not ready to file a report, the staff can work with him or her to address concerns over housing, class assignments or schedules, leaves of absence, withdrawal or other academic concerns. The office staff can also assist the student in notifying ISU Police or local law enforcement, if the student so requests, or referring the student to resources such as counseling or a confidential advocate.

Contact information: www.dso.iastate.edu/

1010 Student Services Building

515-294-1020

Office of Equal Opportunity: EO staff can discuss concerns over sexual harassment and options for students, and can assist in filing a complaint under university policy.

Contact information: <http://www.eoc.iastate.edu/>
3350 Beardshear Hall
515-294-7612

Title IX Coordinator: The university has designated Robinette Kelley, director of the Office of Equal Opportunity, as the Title IX Coordinator to ensure Title IX compliance for the entire campus. Because sexual assault is considered to be a severe form of sexual harassment, an alleged victim may wish to file a sexual harassment complaint with the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring a non-discriminatory campus environment that is free from harassment. Questions or concerns may be directed to 515-294-7612, or in person at 3350 Beardshear Hall, Ames, IA 50011.

Deputy Title IX Coordinators are:

- Dawn Bratsch-Prince, Associate Provost, 515-294-6410
- Sara Kellogg, Dean of Students Office, 515-294-1023
- Calli Sanders, Athletics Department, 515-294-3706

Contact information: <http://www.eoc.iastate.edu/>
3350 Beardshear Hall
515-294-7612

Margaret Sloss Women's Center (MSWC): The MSWC provides support and information through educational outreach, appropriate referral services, and a safe space.

Contact information: <http://www.dso.iastate.edu/wc/>
Sloss House on the ISU campus
515-294-4154
Email: womenctr@iastate.edu

ISU Police Division: Contacting ISU Police does not mean a student must pursue criminal charges. ISU Police can advise students of their options, help preserve evidence while they consider options, and assist students in safety planning.

Contact information: <http://www.police.iastate.edu/>
Room 55 Armory
Emergency phone: 911
Non-emergency phone: 515-294-4428
Safety Escort: 515-294-4444
E-Mail: dpsinfo@iastate.edu

COMMUNITY RESOURCES

Mary Greeley Medical Center
Contact information: <http://www.mgmc.org/>
1111 Duff Avenue
515-239-2011

Planned Parenthood of Ames
Contact information: <http://www.plannedparenthood.org/health-center/centerDetails.asp?f=2385>
2530 Chamberlain St.
877-811-7526

Ames Police Department
Contact information: <http://www.cityofames.org/index.aspx?page=156>
515 Clark Avenue, Ames, IA 50010 (entrance on 6th Street)
Emergency phone: 911
Non-emergency phone: 515-239-5133

Story County Sheriff's Office
Contact information: <http://www.storycountyiowa.gov/index.aspx?NID=112>
1315 South B Avenue, Nevada, IA 50201
515-382-6566
If outside the Ames area, call local law enforcement or sheriff.

Story County Attorney's Office

Contact information: <http://www.storycountyiowa.gov/index.aspx?NID=90>

Main Office: 1315 South B Avenue, Nevada, IA 50201; phone 515-382-7255

Ames Office: 126 S. Kellogg, Ste 203; phone 515-232-4185

See also the Story County Attorney's Office [Victim Witness Assistance Program](#), which can offer information on the criminal process and also help locate financial assistance for crime victims.

<http://www.storycountyiowa.gov/index.aspx?NID=325>

Resource Links

Policies and Guidance

[Sexual Misconduct & Sexual Assault Website](#)

[Discrimination and Harassment Policy-ISU](#)

[Violence-Free Campus Policy - ISU](#)

[Non-Retaliation Against Persons Reporting Misconduct Policy - ISU](#)

["Safety & You" Report - ISU \(includes Crime Statistics\)](#)

[Training Information Contact](#)

[Student Disciplinary Regulations](#)

[Sexual Misconduct Guiding Principles - Board of Regents, State of Iowa \[PDF\]](#)

[Faculty Conduct Policy - Faculty Handbook, Chapter 7](#)

[Personal Safety Guidance - ISU Department of Residence](#)

ISU Offices and Services

[Dean of Students Office](#)

[Judicial Affairs](#)

[Margaret Sloss Women's Center](#)

[Office of Equal Opportunity](#)

[Senior Vice President and Provost](#)

[ISU Police](#)

[Student Counseling Service](#)

[Discrimination and Harassment Assistors](#)

[Thielen Student Health Center](#)

[Ombuds Office](#)

Ames and Story County

[ACCESS \(Assault Care Center Extending Shelter and Support\)](#)

[SART \(Story County Sexual Assault Team\)](#)

[Mary Greeley Medical Center](#)

[Planned Parenthood of Ames](#)

[Ames Police Department](#)

[Story County Attorney](#)

[Story County Sheriff](#)

[Story County Victim Witness Assistance Program](#)

Iowa Law

[Iowa Code Section 708.7, Harassment](#)

[Iowa Code Section 708.11, Stalking](#)

[Iowa Code Chapter 709, Sexual Abuse](#)

[Iowa Code Section 709.1A, Incapacitation](#)

[Iowa Code Section 709.4, Sexual Abuse in the Third Degree](#)

[Iowa Code Chapter 729A, Violation of Individual Rights - Hate Crimes](#)

[Iowa Code Chapter 915, Victim Rights](#)

Discrimination and Harassment

Effective: May 1, 2006

Updated/Revised: August 9, 2011

Contact: [Office of Equal Opportunity \(OEO\)](#)

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Introduction

Respect is the foundation for interchange of ideas, for learning and for working toward common goals. Consequently, Iowa State University is committed to assuring that its programs are free from prohibited discrimination and harassment based upon race, ethnicity, sex, pregnancy, color, religion, national origin, physical or mental disability, age (40 and over), 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. Discrimination and harassment impede the realization of the university's mission of distinction in education, scholarship, and service, and diminish the whole community.

Iowa State University reaffirms and emphasizes its commitment to provide a professional working and learning environment that is fair and responsible; that supports, nurtures, and rewards educational and employment growth on the basis of relevant factors such as ability and performance; and that is free of discriminatory, inappropriate, and disrespectful conduct or communication.

For these reasons, the university will not tolerate discrimination or harassment, as defined below, and is committed to preventing it or stopping it whenever it may occur at the university or in its programs. The policy presented here applies to employees, students, visitors, applicants, or program participants at Iowa State University. Students, however, should see the policy on *Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students* for specific information regarding their unique rights and responsibilities, including resources and complaint resolution (see [Resources](#) below).

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Policy Statement

1. Discrimination and Harassment Defined

Iowa State University prohibits discrimination, which can include disparate treatment directed toward an individual or group of individuals based on race, ethnicity, sex, pregnancy, color, religion, national origin, physical or mental

disability, age (40 and over), marital status, sexual orientation, gender identity, genetic information, status as a U.S. Veteran (disabled, Vietnam, or other), or other protected class, that adversely affects their employment or education. For religion or disability, the law allows employees and students to request reasonable accommodations to continue their work or studies.

Iowa State University also prohibits harassment, which can be a form of discrimination if it is unwelcome and is sufficiently severe or pervasive and objectively offensive so as to substantially interfere with a person's work or education. Harassment may include, but is not limited to, threats, physical contact or violence, pranks, jokes, bullying, epithets, derogatory comments, vandalism, or verbal, graphic, or written conduct directed at an individual or individuals because of their race, ethnicity, sex, pregnancy, color, religion, national origin, physical or mental disability, age, marital status, sexual orientation, gender identity, genetic information, or U.S. veteran status. Even if actions are not directed at specific persons, a hostile environment may be created when the conduct is sufficiently severe or pervasive and objectively offensive so as to substantially interfere with or limit the ability of an individual to work, study, or otherwise to participate in activities of the university.

It is the university's goal to prevent the occurrence of discriminatory and harassing activity and to promptly stop such conduct. While grounded in state and federal non-discrimination laws, this policy may cover those activities which, although not severe, persistent, or pervasive enough to meet the legal definition of harassment, are unacceptable and not tolerated in an educational or work environment. This policy will be interpreted so as to avoid infringement upon First Amendment rights of free speech. The university must be mindful of the tradition of academic freedom that includes the free exchange of ideas inherent in an academic community. A determination as to whether discrimination or harassment has occurred will be based upon the context in which the alleged conduct occurs. For further discussion, see Section 3.4.

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1.1. Sexual Harassment

Sexual harassment, in its legal definition, includes unwelcome sexual advances, requests to engage in sexual conduct, and other physical and expressive behavior of a sexual nature where (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; (2) submission to or rejection of such conduct by an individual is used, or threatened or suggested to be used, as the basis for academic or employment decisions affecting the individual; or (3) such conduct substantially interferes with an individual's academic or professional performance or creating an intimidating, hostile, or demeaning employment or academic environment. Determination as to whether the alleged conduct constitutes sexual harassment should take into consideration the totality of the circumstances, including the context in which the alleged incidents occurred.

Under this policy, sexual harassment can be verbal, visual, or physical. It can be overt, as in the suggestion that a person could get a higher grade or a raise in salary by submitting to sexual advances. The suggestion or the advance need not be direct or explicit—it can be implied from the conduct, circumstances, and relationships of the persons involved. Sexual harassment can also consist of persistent, unwelcome attempts to change a professional or academic relationship to a personal one. It can range from unwelcome sexual flirtations and inappropriate put-downs of individual persons or classes of people to serious physical abuses such as sexual assault. Examples could include, but are not limited to, unwelcome sexual advances; repeated and unwelcome sexually-oriented bullying, teasing, joking, or flirting; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; derogatory or demeaning comments about women or men in general, whether sexual or not; leering, touching, pinching, or brushing against another's body; or displaying objects or pictures, including electronic images, which are sexual in nature and which create a hostile or offensive work, education, or living environment.

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1.1.1. Consensual Relationships

Sexual, romantic, or intimate relationships between persons in an unequal power relationship that appear to be voluntary and welcome may nonetheless constitute sexual harassment under this definition. Relationships between faculty and subordinate faculty or staff, between a supervisor and those employees whom he or she supervises, or between a faculty member or teaching assistant and his or her student may give rise to legal and ethical concerns or to conflict between personal and professional interests. Although such a relationship may be viewed by the parties involved as consensual, that fact alone does not mean that no sexual harassment exists.

In addition, such relationships can result in discrimination or harassment where (1) third parties are adversely affected in academic or employment matters because of a consensual relationship between others; (2) where a consensual relationship creates a hostile and intimidating work or learning environment for third parties; or (3) when a consensual relationship ends, and one of the parties continues behavior which the other party has made clear is now unwelcome.

Supervisors, instructors, or mentors involved in such relationships have the obligation to remove themselves from the supervisory or mentoring relationship (see Faculty Handbook, §7.2.2.1.1.).

1.2. Racial and Ethnic Harassment

Harassment that is directed at a person or group of persons because of race, color, ethnicity, or national origin is covered under this policy. Even if actions are not directed at specific persons, a hostile environment can be created when the conduct is sufficiently severe or pervasive and objectively offensive so as to substantially interfere with the person's work, education, or activities on campus.

1.3. Harassment Based on Religion, Disability, Pregnancy, Age, Marital Status, Sexual Orientation, U.S. Veteran Status, or Other Protected Status

Harassment that is directed at a person or group of persons because of any characteristic protected by this policy or local, state or federal law is also covered under this policy.

1.4. Retaliation

Retaliation against an individual for making a complaint of discrimination or harassment, for resisting discrimination or harassment, or for otherwise using or participating in the informal or formal complaint resolution process, is a violation of university policy, and any such action is itself cause for disciplinary action.

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2. Complaint Resolution

In an effort to prevent or stop discriminatory or harassing behavior, the university has adopted specific avenues through which an individual can make his or her complaint known. With issues of discrimination and harassment, it is important to identify and remedy the situation as soon as possible. For this reason, the university has adopted two complaint resolution mechanisms that employees may use to raise discrimination and harassment concerns - informal and formal resolution. Claims of discrimination and harassment must be brought either as an informal complaint or a formal complaint to ensure that appropriate action can be taken right away. An informal complaint may, but need not be made before filing a formal complaint; however, once a formal complaint has reached resolution, the same complaint cannot be brought as an informal complaint.

Complaints by or against students, on the other hand, are handled differently. All complaints of discrimination or harassment by or against a student should be brought to the Dean of Students Office. The policy on *Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students* (see Resources below) contains information on support services for students during any complaint resolution process.

To best remedy a situation, complainants are urged to promptly share concerns or complaints rather than risking their well being or negatively affecting the university's ability to investigate their case due to the passage of time and potential departure of witnesses. If a formal complaint contains incomplete information, the Office of Equal Opportunity (OEO) will promptly seek to gather the needed information from the complainant. In the event that such information is not furnished to the OEO within 30 days from the date of the request, the case may be closed. Consistent with federal regulations governing the filing of complaints, the OEO may decline to investigate claims in which none of the alleged discrimination or harassing action occurred within the preceding 300 days.

Any employee, student, visitor, applicant, or program participant of Iowa State University may file a complaint alleging discrimination or harassment in violation of the university's policy prohibiting such conduct. In most cases, complaints against affiliates or contractors of Iowa State University must first proceed through the affiliate or contractor before Iowa State University may intervene. Information about the university's policy and resolution procedures may be found in several offices, including the Dean of Students Office, the Student Counseling Service, the Women's Center, the Senior Vice President and Provost, the Employee Assistance Program, and the OEO. As described below, the university has designated and trained certain individuals, called discrimination and harassment assistants, to assist a potentially injured person in deciding if and how to proceed and in carrying out that decision.

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2.1. Informal Resolution

Iowa State University has adopted an informal process through which non-student harassment and discrimination complaints may be resolved promptly and discreetly, often through communication, education, and/or mutual agreement. If informal resolution fails to resolve the matter to the complainant's satisfaction, the complainant may file a formal complaint with, or seek the assistance of the university's Office of Equal Opportunity (OEO). The implementation of this informal process is the responsibility of all central administrators, deans, directors, department chairs, supervisors, and managers - hereinafter referred to collectively as "supervisors" for purposes of this policy.

Under the informal process, the complainant must bring the complaint, either verbally or in writing, to a supervisor

with authority over the person against whom the complaint is directed. Because it is often more efficient to resolve matters locally, bringing the informal complaint to a supervisor with immediate authority over the person is useful, but not required. If a complainant is not comfortable speaking with a supervisor, informal complaints may also be raised with the OEO. To ensure responsiveness and consistent application of this policy, the supervisor must notify the OEO when he or she receives an informal complaint. If the allegations reveal conduct of a severe or repetitive nature, the supervisor or the OEO may deem a formal investigation under section 2.2 to be warranted. The supervisor is expected to review the complaint and explore avenues for resolution with the complainant. With the complainant's consent, the supervisor may contact the accused person.

Because the OEO can provide assistance through this process, the supervisor is encouraged to consult with the OEO regarding alternatives for resolution. Options for informal resolution may include advising the complainant about methods to resolve the concern, arranging educational programs for individuals or departments, helping modify a work or study situation, mediating between the parties, or intervening or arranging for a third party to intervene. The informal process is not a formal investigation. A supervisor shall not impose discipline against an accused person as a result of the informal process without first consulting with the OEO, or in the case of a complaint against a faculty member, the Office of the Senior Vice President and Provost (SVPP).

Supervisors should attempt to resolve complaints expeditiously, but consistent with the severity or complexity of the matter. As a guideline, supervisors should attempt to complete the informal resolution process within three weeks after receipt of the complaint. To ensure responsiveness and consistent application of this policy, the supervisor must notify the OEO as to the resolution of the complaint.

In cases of complaints against members of the faculty, the Faculty Conduct Policy provides for mediation by a third party to resolve the complaint when all parties agree. For more information, see the Faculty Handbook, Faculty Conduct Policy, Mediated Process (§7.2.4).

For purposes of annual reporting, the supervisor shall maintain a written record of the complaint and of the informal resolution process undertaken, taking care to preserve the privacy rights of both the complainant and the alleged offender.

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2.2. Formal Resolution

A person who wishes to file a formal complaint must do so in writing as described below. Students should see the policy on *Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students* (see Resources below)

2.2.1. Complaints Against Faculty Members

When a person chooses to file a formal complaint against a member of the faculty, he or she may file the written complaint with either the SVPP Office or the OEO (see details in 2.2.2. below). In cases where the complainant files a complaint with the OEO, that office will notify the SVPP of the complaint within one business day and coordinate with the Faculty Review Board, as required by the Faculty Conduct Policy. The Faculty Review Board will conduct its own investigation or work in conjunction with an investigator and make recommendations to the SVPP.

2.2.2. Complaints Against Others

A person who believes that she or he has been subjected to harassment or discrimination may file a formal complaint with the university's Office of Equal Opportunity (OEO). A formal complaint with the OEO involves completing an intake form and submitting a written, signed statement describing the incident or incidents as completely as possible. Specific guidelines for the submission of a complaint may be obtained from the OEO, and the complainant may visit with a staff member of that office prior to filing a formal complaint.

Once a complaint is filed with the Office of Equal Opportunity, it will be assessed and, if an investigation is warranted, the case will be assigned for investigation to a staff member or designee. A complaint against the President will be referred to the Board of Regents for investigation and disposition. The person against whom the complaint is filed will be notified. Each investigation will necessarily be different depending on the facts, circumstances, and witnesses. Generally, an investigation will include interviews with the complainant or complainants, with the person against whom the complaint has been brought, and with anyone else who might have information that would be helpful. Based on this investigation, the Office of Equal Opportunity and/or designated investigator will meet with the supervisor of the accused person to share findings and discuss appropriate action to resolve the complaint.

The supervisor to whom the Office of Equal Opportunity reported must notify that office as to whether he or she accepts the findings as well as what action, if any, has been or will be taken. If the unit administrator does not accept the findings of the Office of Equal Opportunity, then the Office of Equal Opportunity shall submit a written summary of the findings and recommendation to the appropriate vice president or SVPP, who shall in turn take whatever action

he or she believes to be necessary to remedy the situation. Any disciplinary action shall be handled under the appropriate employee handbook.

The investigation by the Office of Equal Opportunity or designated investigator will be conducted expeditiously, but in a manner consistent with the complexity and severity of the matter and availability of witnesses. The Office of Equal Opportunity will attempt to complete its investigation and recommendation within forty-five days of initiation of the formal complaint if possible.

The Office of Equal Opportunity shall notify the complainant in writing of the result of the investigation. Any subsequent complaints or appeals external to the university shall be at the discretion of the complainant in accordance with the rules and timelines of the entity receiving the complaint or appeal (e.g., Board of Regents, Iowa Civil Rights Commission).

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2.3. Discrimination and Harassment Assistors

Because sexual harassment can be difficult to identify and understand, the university has designated persons on campus as assistors to help anyone who believes she or he may have been subjected to sexual harassment or who wishes to make an inquiry concerning sexual harassment. Assistors are specifically trained about university policies and procedures and about options and strategies available for the resolution of complaints. Assistors are resources for information but they are not responsible for investigating or resolving complaints - the ultimate responsibility for making an informal or formal complaint lies with the complainant. An assistor can accompany the complainant to resolution meetings or sessions if requested by the complainant, but the assistor does not function as a spokesperson, nor does the assistor act on behalf of the complainant. Lists of designated discrimination and harassment assistors are available from the Office of Equal Opportunity.

2.4. Other Internal Grievances

Students and employees may have concerns or complaints about their academic or work settings that may not directly involve discrimination or harassment (e.g., grades, office assignment). As described below, the university has established internal grievance procedures to address concerns other than discrimination and harassment.

For Students

- **Academic Matters.** Complaints related to academic matters may be filed in accordance with the policy on Appeal of Academic Grievances found in the University Catalog. Such complaints should be brought to the attention of the instructor or the department chair.
- **Complaints Against Students.** Complaints regarding misconduct by a student may be directed to the Office of Judicial Affairs in accordance with the Student Conduct Code, published in the Student Disciplinary Regulations.
- **Student Employee Grievances.** Undergraduate student-employees may bring a grievance in accordance with the policy on Undergraduate Student-Employee Grievances (see Resources below).
- **Student Accommodation Process.** Students with disabilities who have concerns as to academic accommodations may also proceed informally by notifying Disability Resources.

For Faculty and Staff

- **Merit Staff Grievances.** Complaints regarding terms of employment or working conditions may be brought by merit staff in accordance with the Grievance Appeal Procedure for the Merit System.
- **Faculty and P&S Grievances.** Grievances of faculty and P&S employees may be brought in accordance with the provisions of the applicable employee handbook.

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2.5. Title IX Coordinator

The university has designated Robinette Kelley, director of Equal Opportunity, as the Title IX Coordinator to handle inquiries regarding non-discrimination and harassment policies and complaints. Questions or concerns may be directed to 515-294-7612, or in person at 3350 Beardshear Hall, Ames, IA 50011.

Deputy Title IX Coordinators are:

- Dawn Bratsch-Prince, Associate Provost, 515-294-6410
- Sara Kellogg, Dean of Students office, 515-294-1023
- Calli Sanders, Athletics Department, 515-294-3706

3. Enforcement

3.1. Responsibilities of the University, Administrators, and Supervisors

Iowa State University--including its officers and its employees--is committed to maintaining a working and learning environment free from discrimination and harassment. The administration will make widely known that discrimination and harassment are prohibited both legally and by this policy, and that appropriate procedures for dealing with allegations of discrimination or harassment are available. Students, staff, faculty, and administrators should know that the university is concerned about such behavior and is prepared to take preventive and corrective action.

University administrators and supervisors who do not respond to discrimination or harassment complaints brought to their attention are in violation of this policy. This policy identifies what an administrator/supervisor should do in the event he or she learns of a discrimination or harassment complaint. In addition, administrators and supervisors are strongly encouraged to seek assistance in the event they feel unequipped to address such a concern by contacting the Office of Equal Opportunity.

3.2. Confidentiality

Persons seeking general information or guidance about harassment or discrimination may be concerned about whether the information they share with another person will be confidential. While the university is eager to create a safe environment in which individuals can be unafraid to discuss concerns and make complaints, legal obligations may require the university to take some action once it is informed that harassment or discrimination may be occurring. Because of their positions of authority, certain university personnel--i.e., central administrators, deans, directors, department chairs, supervisors, and managers--are particularly obligated to take action when they receive a complaint of harassment or discrimination. Although the confidentiality of the information received and the privacy of the individuals involved cannot be guaranteed, they will be protected to as great an extent as is legally possible. The expressed wishes of the complainant regarding confidentiality will be considered in the context of the university's legal obligation to act upon the charge and the right of the charged party to be informed concerning the charge.

3.3. Sanctions

Employees found to have engaged in discrimination or harassment in violation of this policy are subject to appropriate discipline up to and including termination of employment. Students found to have engaged in discrimination or harassment in violation of this policy are subject to appropriate discipline up to and including dismissal. In cases where complaints are found to be baseless or frivolous, and where the accused individual consents, the university will take affirmative steps to restore the reputation of a person believed to be wrongly accused. Appropriateness of such action shall be based upon the nature of the investigation, the findings, and the reputational damage which may have occurred.

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3.4. Academic Freedom and Freedom of Speech

Enforcement of this policy must respect the principles of academic freedom and the right of free speech. Therefore, in evaluating whether speech has become harassment, the following factors will be considered:

- The tone of voice, gestures and behavior of the speaker;
- Whether there is conduct or speech which indicates a discriminatory purpose or a constructive purpose;
- Whether the speech is made in a context where the recipient is in a position to avoid the speaker;
- Whether the speech is germane to an academic exercise and recognized by peers as a legitimate topic or way of presenting academic material;
- Whether the speech is made in a public forum on a matter of public concern, or otherwise in a context in which free debate is encouraged;
- Whether the speech is directed toward specific individuals or a specific group of individuals;
- The degree to which the expression was necessary to the discussion of the subject matter;
- Whether the speech is so severe as to amount to a crime under Iowa law; and
- Whether the speaker did or could anticipate that the speech would intimidate or interfere with an individual's ability to continue to participate in university activities.

When investigating conduct which includes scholarly discourse, the Office of Equal Opportunity will be cognizant of the provisions of the Faculty Handbook on Scholarly Discourse and Germaneness.

3.5. Direct Institutional Action

Even in the absence of a complaint, if university administrators, including the president, the SVPP, senior vice presidents, vice presidents, deans, department chairs, or directors, become aware of allegations of discrimination or

harassment, they should inquire into, or seek assistance in inquiring into, allegations or behaviors that may be discriminatory or harassing in order to determine what action(s) are warranted. Appropriate procedures may include initiating an investigation. Supervisors needing assistance should consult with the Office of Equal Opportunity.

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4. External Actions

In addition to the university's channels, a person who believes that she or he has been subjected to discrimination or harassment may file a charge under the various jurisdictions of the Iowa Civil Rights Commission, the Equal Employment Opportunity Commission, or the U.S. Office of Civil Rights. Information on filing charges with any of these agencies, including deadlines for doing so, may be obtained from each agency's website. (see links on the Office of Equal Opportunity website)

Resources

Links

- [Non-Discrimination and Affirmative Action Statement \[PDF\]](#)
- [Religious Accommodation Statement](#)
- [Student Disability Resources - Accommodations](#)
- [Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students](#)
- [Student Disciplinary Regulations 4.2.5 - Sexual Misconduct, Sexual Assault and Sexual Harassment](#)
- [Student Disciplinary Regulations 4.2.7 - Harassment and Discriminatory Harassment](#)
- [Student Disciplinary Regulations 4.2.9 - Disruption of Rights](#)
- [Conduct Policy - Faculty \(FHB 7\)](#)
- [Grievance Procedures, Faculty \(FHB 9\)](#)
- [Grievance Management, Non-Faculty](#)
- [Grievance Policy, Undergraduate Student-Employees](#)
- [Non-Retaliation Policy](#)
- [Dean of Students Office](#)
- [Student Counseling Service](#)
- [Office of Equal Opportunity](#)
- [Discrimination and Harassment Assistors](#)
- [Employee Assistance Program](#)
- [University Human Resources \[UHR\]](#)
- [Women's Center](#)
- [University Catalog](#)
- [AFSCME Contract and Other Merit Information](#)

Exhibit 6

----- Forwarded message -----

From: **Workplace Answers eLearning** <training@workplaceanswers.com>
Date: Thu, Sep 1, 2016 at 9:36 AM
Subject: Course Reminder for Robert Dunn
To: rdunn@iastate.edu

This email is being sent to you on behalf of the Office of Equal Opportunity at Iowa State University. If you have any questions regarding your registration or the course content, DO NOT reply to this email; please contact the Office of Equal Opportunity at telephone number [\(515\) 294-7612](tel:5152947612) or email eooffice@iastate.edu.

Dear Iowa State University Students:

To ensure all students understand and follow the university's non-discrimination policies and procedures, we are asking students to complete an online training program.

This training is an annual requirement. As long as you are a student (on and off campus, full-time, and part-time) at Iowa State University, you will be asked to renew your training in early August every year you are enrolled.

Each course is approximately 45 minutes in duration. The courses are interactive and include examples of many challenging and interesting real-life workplace situations.

The courses can be taken on any computer with internet access. To access the program, please logon (using your last name and university ID number) here: <https://slate.workplaceanswers.com/iowast>

You may use this link to resume your training if needed. The training does not have to be completed in one sitting. You may start and stop as needed. The program will bring you back to the place where you stopped.

Individuals with disabilities who need an accommodation to participate in the online training program should make their requests directly to the Office of Equal Opportunity at telephone number [\(515\) 294-7612](tel:5152947612) or by email at eooffice@iastate.edu.

We ask that you complete the program by as soon as possible. If you have any questions regarding the training material, or technical questions please contact the Office of Equal Opportunity.

Thank you in advance for completing the required training and for doing your part to ensure that Iowa State remains a welcoming environment that is free of harassment

and discrimination. If you have any questions regarding the training material or any technical issues, please contact the Office of Equal Opportunity at [\(515\) 294-7612](tel:5152947612) or by email at eooffice@iastate.edu.

Sincerely,

Margo R. Foreman
Director of Equal Opportunity, Iowa State University

----- Forwarded message -----

From: "Workplace Answers eLearning" <training@workplaceanswers.com>
Date: Sep 15, 2016 12:30 AM
Subject: Course Reminder for Robert Dunn
To: <rdunn@iastate.edu>
Cc:

This email is being sent to you on behalf of the Office of Equal Opportunity at Iowa State University. If you have any questions regarding your registration or the course content, DO NOT reply to this email; please contact the Office of Equal Opportunity at telephone number (515) 294-7612 or email eooffice@iastate.edu.

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Sincerely,

Margo R. Foreman
Director of Equal Opportunity, Iowa State University

----- Forwarded message -----

From: **Workplace Answers eLearning** <training@workplaceanswers.com>
Date: Tue, Sep 27, 2016 at 3:03 PM
Subject: Course Reminder for Robert Dunn
To: rdunn@iastate.edu

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Margo R. Foreman
Director of Equal Opportunity, Iowa State University