

3.15 Sexual Misconduct Policy - DRAFT – AS OF 12.5.08

If You or Someone You Know May Be A Victim of Sexual Misconduct:

If you or someone you know may be a victim of sexual misconduct, sexual assault, or any other behaviors prohibited under this policy, you are strongly encouraged to seek immediate assistance from [Violence Intervention Services](#), **Student Health Center, Room 60 (319) 273-2137** or [UNI Police, Gilchrist Hall, Room 30, \(319\) 273-2712](#). Students will be provided counseling and medical referrals; assistance with safe housing and academic and financial concerns related to the sexual misconduct; and information concerning victim's rights. Individuals will also be provided information concerning University, civil and criminal complaints, including how to file such complaints.

The University will not pursue disciplinary action for improper use of alcohol or other drugs against an alleged victim of sexual misconduct or against another student who shares information as either a witness to or as a reporter of sexual misconduct as long as the report is made in good faith. See "Good Samaritan Provision" Article III (D) of the [Student Conduct Code](#).

Preamble:

The University of Northern Iowa is committed to providing a safe living and learning environment for all students. Maintaining this type of environment requires that any sexual behavior of students be consensual. Special emphasis is placed on violence prevention, providing support for those who may have been victimized and ensuring a vigorous enforcement of institutional policy and law. The University's response to sexual misconduct seeks to balance the rights, needs and privacy of victims and those of the accused, while maintaining the health and safety of the campus community.

Purpose:

This policy describes prohibited sexual conduct involving students, including sexual assault, rape, sexual harassment, and other forms of non-consensual sexual behavior; identifies resources and support provided to victims; establishes procedures for reporting incidents of sexual misconduct; and articulates the University's commitment to preventing sexual misconduct and responding appropriately when incidents do occur.

Policy:

Article I – Sexual Misconduct

The University prohibits sexual misconduct in any form. Sexual misconduct is a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation. Sexual misconduct can occur between persons of the same or different sex.

For the purposes of this policy, consent is defined as a freely and affirmatively communicated willingness to participate in sexual activity, expressed either by words or clear, unambiguous actions. It is the responsibility of the initiator of the sexual activity to ensure he or she has the other person's consent to engage in sexual activity. Consent must be present throughout the sexual activity by all parties involved. At any time, a participant can communicate that he or she no longer consents to continuing the activity. Consent may never be obtained through the use of force, coercion or intimidation or if the victim is mentally or physically disabled or incapacitated, including through the use of drugs or alcohol.

Consent cannot be assumed because of the existence of a dating relationship between the persons involved or due to the existence of a previous sexual relationship between the persons. The perpetrator or victim's use of alcohol or other drugs does not diminish the perpetrator's responsibility.

Sexual Assault

Sexual assault is a 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. It includes any physical contact of a sexual nature that is committed by either force or intimidation or through the use of a person's mental or physical incapacity, including incapacitation caused by the use of drugs or alcohol.

The list of behaviors prohibited under this policy includes, but is not limited to, the following:

- Unwanted touching of the genitals, buttocks, or breasts that is intentional or other unwanted touching or groping
- Forcing/coercing someone to touch you or someone else in a sexual manner
- Threatening to sexually harm someone
- Rape or attempted rape
- Ignoring a sexual limit that has been communicated
- Initiating sexual activity with a person who is unable to provide consent due to incapacitation from alcohol and/or drug consumption or other condition
- Unwanted penetration of an orifice (anal, vaginal, oral) with the penis, finger or objects
- Coercing or intimidating someone into sexual behavior
- Using electronic devices or technology (e.g., cell phone, camera, email, Internet sites or online communities) to record or transmit nudity or sexual acts without a person's knowledge and/or permission
- Intentionally observing nudity or sexual acts of another person without the person's knowledge or permission (voyeurism)

Sexual Harassment

Sexual harassment is a form of sexual misconduct that may include unwelcome sexual advances, requests for sexual favors, and other verbal, written or physical conduct of a sexual nature when:

- Submission to or rejection of such conduct or communication is a term or condition of education benefits, academic evaluations or opportunities
- The behavior is sufficiently severe or pervasive to unreasonably interfere with the student's education or employment or create an intimidating, hostile or objectively offensive environment

If one or more of the above conditions are met, examples of sexually harassing behavior may include: spreading sexual rumors; catcalls/whistles; making sexual gestures; touching oneself sexually in front of another; repeated and unwelcome sexual conversations; flirting; teasing; persistent efforts to develop a sexual relationship; pressure to engage in sexual behavior; and other verbal or physical conduct. Comments can be verbal, written, or electronic.

Determination of whether conduct constitutes sexual harassment requires consideration of all the circumstances, including the context in which the alleged incidents occurred.

Article II – Student Resources and Support

Confidential Resources

The University of Northern Iowa will make every effort to safeguard the identities of students who seek help and/or report sexual misconduct. While steps are taken to protect the privacy of victims, the

University may need to investigate an incident and take action once an allegation is known, whether or not the student chooses to pursue a complaint.

The following individuals are designated as confidential resources; will seek to maintain all information received as private; and will not share confidential information with University officials or others, unless required to do so by law:

- A sexual assault advocate, including an advocate from the UNI Office of Violence Intervention Services and/or an advocate from Seeds of Hope (a community victim services provider)
- A licensed psychologist or certified mental health counselor, including counselors at the UNI Counseling Center
- A health care provider, including physicians and other medical professionals at the Student Health Clinic
- A religious advisor or clergy member

Office of Violence Intervention Services, Student Health Center, Room 60, (319) 273-2137

The Victim Services Coordinator will be the primary point of referral for a student who alleges sexual misconduct. Advocacy services will be made available to students free of charge and will include:

- Counseling and medical referrals both on campus and in the community
- Assisting victims in accessing resources
- Providing information on all reporting and complaint options and how to file such complaints (including University disciplinary, criminal, and civil complaints)
- Assistance in securing updates concerning the status of University and criminal complaints
- Assistance in accessing safe housing, including alternate campus housing
- Assistance with requests for changes in academic class schedule and other academic accommodations
- Assistance in obtaining University no contact orders and court issued protective orders
- Assistance in obtaining reimbursement for crime-related expenses
- Accompanying victims to meetings with University, law enforcement, and other officials as requested by the victim
- Assistance in preparing victim impact statements

Seeds of Hope, 2005 Kimball Ave, Suite 355, Waterloo, IA 50702, (888) 746-4673 (24 hour crisis line) or (319) 272-1400

Seeds of Hope is a community agency that provides comprehensive advocacy services 24 hours a day, seven days a week. Services will be made available to students free of charge and include:

- 24-hour crisis line
- 24-hour rape/sexual assault medical, legal and court advocacy
- Individual counseling and support groups
- Emergency cellular phone loan program
- Transportation to medical and counseling appointments

UNI Counseling Center, Student Health Center, Room 103, (319) 273-2676

The UNI Counseling Center provides free and confidential individual and group counseling by licensed psychologists and mental health counselors to students. A counselor is available during regular office hours to meet with students in crisis or to consult with faculty or staff about an urgent situation. After hours, call UNI Public Safety at (319) 273-2712 and they will contact the on-call counselor when appropriate. Referral and consultative services are also available.

UNI Student Health Clinic, Student Health Center, Room 16, (319) 273-2009

The UNI Student Health Clinic provides services and tests for victims of sexual assault in a safe, non-judgmental environment. Services to students are free and confidential and include:

- Care for medical and/or psychological injuries
- Pregnancy testing, emergency contraception (Plan B), and pregnancy options counseling
- Sexually transmitted infection testing and treatment, including HIV antibody testing

- Referral to area hospitals for evidence collection
- Referral for advocacy services

Local Hospitals

All local hospitals provide 24-hour emergency medical services and examinations for evidence using a rape kit.

Sartori Hospital
515 College St.
Cedar Falls, IA 50613
(319) 268-3090

Allen Hospital
1825 Logan Avenue
Waterloo, IA 50703
(319) 235-3697

Covenant Medical Center
3421 West 9th St
Waterloo, IA 50702
(319) 272-7050

Other University Resources

Dean of Students Office, Gilchrist Hall, Room 118, (319) 273-2332

The Dean of Students will coordinate the University's response to reports of sexual misconduct. This includes:

- Ensuring that victims are provided appropriate support, including facilitating requests for alternate housing and negotiating academic accommodations
- Assisting students in notifying on campus or local law enforcement authorities if the student so requests
- Investigating reports of alleged sexual misconduct involving students
- Issuing no contact and no trespass orders
- Initiating interim actions against the accused, such as interim suspension or residence hall suspension, in accordance with the provisions outlined in Article IV (I) of the [Student Conduct Code](#).
- Overseeing the student disciplinary and appeal processes
- Assisting victims and accused students in understanding their rights under the University student disciplinary process
- Ensuring that information regarding the Sexual Misconduct Policy and related services is made available to students and employees in print and via the University website

UNI Police, Gilchrist Hall, Room 30, (319) 273-2712

UNI Police are committed to providing a safe campus environment. UNI Police officers will assist victims in determining whether a crime was committed and what options are available for the victim to pursue. In the event the misconduct occurred off-campus, UNI Police will assist in contacting the appropriate law enforcement agency. Assistance can be requested from UNI Police without filing formal criminal charges or making a complaint to the University. Services provided include:

- Contacting an advocate to be present during the process with permission of the victim
- Assisting in obtaining medical attention
- Providing information as to criminal and/or University complaint processes
- Contacting other law enforcement agencies if the incident occurred off-campus
- Contacting institutional officials for requests to ensure safety while on campus
- Explaining and providing a written copy of the victim's rights
- Providing safety escorts and emergency cell phone loans

Article III - Reporting Options

There are two general options for students to make a formal complaint of sexual misconduct – University and criminal. A student can pursue either or both of the options described below. In addition, any person can choose to pursue civil action.

Note: The University will not pursue disciplinary action for improper use of alcohol or other drugs against an alleged victim of sexual misconduct or against another student who shares information as

either a witness to or as a reporter of sexual misconduct as long as the report is made in good faith. The Good Samaritan Provision is described in Article III (D) of the [Student Conduct Code](#).

University Complaint

Sexual misconduct by a student is a violation of the [Student Conduct Code](#). The Student Conduct Code describes the procedures for addressing complaints against students including a description of the rights of the person who files the complaint and of the accused student; policy jurisdiction; deadline for filing complaints; the hearing and decision making processes; possible sanctions; and appeal procedures. Selected policy elements of the Student Conduct Code are described below.

Interim Actions

The Dean of Students may impose interim actions, including interim suspension and residence hall suspension, prior to a hearing to protect the safety or emotional well being of the victim or the accused. Specific provisions are outlined in Article IV (I) of the [Student Conduct Code](#).

Jurisdiction

The Sexual Misconduct Policy applies to conduct that occurs on University premises, at University sponsored activities, or at activities that can be interpreted as representing the University. The policy also applies to off-campus incidents that seriously threaten the health or safety of any person or that adversely interferes with or disrupts the educational or other functions of the University.

Rights of Accused Students and Victims

The rights of the accused student, victim or any other person who files a University complaint against a student are described in Article IV of the [Student Conduct Code](#).

Retaliation

Any retaliatory action against a victim or other person who files a complaint of sexual misconduct or against their friends, acquaintances or other persons cooperating in the investigation of a charge of sexual misconduct is a violation of University policy. This includes any form of intimidation, threats, harassment or knowingly filing a false complaint.

Time Limits

A complaint should be submitted as soon as possible after the event takes place, preferably within 120 class days. Specific information regarding the time frame for responding to and resolving complaints is described in Article IV of the [Student Conduct Code](#).

Sexual misconduct by a University employee is a violation of the University's [Anti-discrimination and Harassment Policy](#) which describes the procedures for addressing such complaints. The Office of [Compliance and Equity Management](#), Gilchrist Hall, Room 117, (319) 273-2846 investigates complaints of sexual misconduct made against University employees and coordinates the University response to such complaints. The Office of Compliance and Equity Management works collaboratively with the Dean of Students to respond to complaints filed by a student against a faculty or staff member.

Criminal Complaint

Some types of sexual misconduct, particularly sexual assault, are criminal acts. The [Code of Iowa](#) (Chapter 709 Sexual Abuse) contains a detailed definition of sexual abuse and associated penalties.

Victims and/or other individuals who are made aware of sexual misconduct are strongly encouraged to contact [UNI Police](#), Gilchrist Hall, Room 30, (319) 273-2712. *Reporting an incident to police does not obligate a person to file criminal charges, but a prompt accounting of the events allows the victim to keep open the option of filing a criminal complaint at a later date. University officials will assist a victim in reporting the incident to police if the victim so requests.*

Article IV - Education, Communication and Training

The University is committed to education, communication and training in order to prevent sexual misconduct and in order to assure an appropriate response when incidents occur. The University will provide information on the following to students, faculty and staff:

- Preventing sexual misconduct
- Procedures for responding to incidents of sexual misconduct
- Resources available to students in cases of sexual misconduct
- Pertinent contents of relevant policy and law

This information will be provided to all new students through orientation and to all registered students, faculty and staff annually.

The University will maintain the above information on a website and in printed form for distribution by University personnel involved in prevention and/or response activities.

The University will provide training on the above information to all University personnel involved in providing any part of the University's response and to all persons who participate in the adjudication of cases via the Student Conduct Code.

Vice President for Student Affairs, approval pending
President's Cabinet, approval pending