

The Adjudication Process

Some sexual and/or relationship misconduct and any other conduct covered by this Policy may constitute criminal violations and violations of College policy. A person charged with a crime can be prosecuted under the Iowa Criminal Code and *separately* adjudicated by the College for any behavior that also constitutes a violation of this Policy. Even if the criminal justice authorities choose not to prosecute, a student charged with any type of sexual and/or relationship misconduct will be subject to the College disciplinary process. Hearing procedures and disciplinary sanctions are outlined below.

Investigation

As described above, it is possible for a complainant to make a first report to a number of different contact points throughout the college community. If a complainant elects to first exercise a confidential reporting option, and after meeting with any college confidential option then determines that they would like to make an official College report, the confidential resource will direct the student to meet with the Title IX Coordinator or a person designated by the Title IX Coordinator. If the complainant first reports the incident to a Responsible Employee, other than the Title IX Coordinator, the Responsible Employee will convey the information to the Title IX Coordinator or a person designated by the Title IX Coordinator who will follow up with the complainant.

Once a meeting is arranged, the Title IX Coordinator or a person designated by the Title IX Coordinator will outline the options available, including how a conduct hearing will work and its possible outcomes. If the complainant decides to participate in the process, the Title IX Coordinator or a person designated by the Title IX Coordinator will take a written and/or tape-recorded statement of the complainant's account of the incident (the complainant may give an initial statement directly to Campus Security). The respondent will also be given the opportunity to provide the Title IX Coordinator or a person designated by the Title IX Coordinator with a written and/or tape-recorded statement. It should be noted that if Campus Security has already taken a written statement from the complainant and/or the respondent, the Title IX Coordinator or a person designated by the Title IX Coordinator may review these statements and then determine if a follow up statement should be taken from the party.

The investigation will also generally include interviews and/or written statements from any witnesses, as well as any other evidence relevant to the incident. The complainant and respondent will be permitted to have their counsel or an advocate present during the interviews and the hearing, however these individuals are permitted to participate only in an advisory capacity to the party; they are not permitted to take an active role in either the investigation or hearing process. Absent extenuating circumstances, the same advocate is expected to be used throughout the entire process should the complainant and/or respondent(s) choose to utilize one.

At the conclusion of the investigation the Title IX Coordinator or someone designated by the Title IX Coordinator will consider all of the information collected as part of the investigation ("investigatory record") and determine whether a hearing panel could reasonably find that a violation of this policy occurred based on the investigatory record. If it is determined, based on the investigatory record, a hearing panel could not reasonably find a violation of this

policy occurred, the complainant and respondent will be notified of the finding and the process will be concluded with neither the complainant nor the accused subject to disciplinary action. If it is determined, based on the investigatory record, a hearing panel could reasonably find a violation of this policy occurred, the procedures set forth below will be followed.

Notice of Charges and Hearing

The Title IX Coordinator or a person designated by the Title IX Coordinator will provide the complainant and respondent with written notice of the charges (policy violations), the hearing process, the hearing board members being chosen, the date and the location of the hearing.

Interim Measures

If, at any time after being made aware of the complaint, the Title IX Coordinator or a person designated by the Title IX Coordinator determines that it is in the best interest of either student, for safety or other reasons, the Title IX Coordinator may take whatever interim measures are deemed appropriate under the circumstances to protect the parties and/or the community. The College will generally initiate these measures only with the complainant's knowledge and consent, but the College reserves the right to take whatever measures are deemed necessary to protect the parties and/or the community. In most instances, both individuals will be instructed to avoid all contact with the other. If these instructions are not heeded, disciplinary action will be taken, including the possibility of immediate suspension from the College and restriction from campus. If requested by the complainant, a change in living or academic/work arrangements will be made to the extent reasonably possible. In cases in which confidentiality is requested, to the extent it is reasonably possible, a complainant may still be provided requested support services such as a change in living or academic/work arrangements and increased monitoring, supervision or security at locations and activities where the alleged misconduct or violence occurred.

Note: The charges of misconduct remain allegations until a decision is reached by the Sexual and Relationship Misconduct Review Board.

Composition of the Sexual and Relationship Misconduct Review Board

The Sexual and Relationship Misconduct Review Board is composed of administrators and staff members. Board members are appointed by the Title IX Coordinator. When selected, all members of the board receive comprehensive training about the hearing process and sexual and relationship misconduct. When it is necessary to convene a Sexual and Relationship Misconduct Review Board, the Title IX Coordinator will select three people from the pool of board members to hear any given case. Both men and women will comprise the pool and each convened board. The Title IX Coordinator or a person designated by the Title IX Coordinator will serve as an ex-officio member of the Sexual and Relationship Misconduct Review Board without vote and will chair the board during the hearing and provide administrative support and clarifications as needed.

The respondent and complainant will be notified of the names of those who will serve on the board at the time the hearing is scheduled. If either objects to any member or members of the board, the person with the objection must commit the reasons for the objection to writing

within two (2) business days thereafter. The Title IX Coordinator will review the objection and decide whether the hearing board member(s) should or should not be replaced. Removal from the hearing board will occur only if the Title IX Coordinator is convinced that extenuating circumstances exist that would preclude the hearing board member from being able to impartially adjudicate the incident. Any board member who personally knows either the respondent or the complainant and believes this may impact their impartiality may be excused from the case.

Elements of the Hearing

The hearing will be convened in a private room where there will be no disturbances from other members of the campus community. *The hearing will not be open to the public.* A record of the hearing (audio tape recording and/or written) will be maintained and made available for review on campus to the respondent and complainant if requested, subject to restrictions/conditions established by the College. There will be separate waiting rooms for the witnesses of the respondent and for the witnesses of the complainant. The witnesses should be the same witnesses interviewed as part of the investigation process. The statements from witnesses obtained during the investigation may be submitted in lieu of actual witness testimony in the absence of an objection by the other party. Depending on the circumstances, the Review Board may allow for a witness to testify via phone, Skype or other electronic means.

The complainant and the respondent will not be required to be present in the hearing room at the same time nor face one another during the hearing process (physical accommodations of the hearing location will be adapted as necessary); however arrangements will be made for both the complainant and the respondent to have the opportunity to observe the entire hearing. Both may present evidence on their own behalf through their own testimony, exhibits, the presentation of witnesses and/or (absent objection) statements of witnesses. Both may choose a person (which may be legal counsel) to accompany them during the judicial proceedings. However, the accompanying person may serve only in a support or advisory role and may not serve in an advocacy role or actively participate at the hearing.

The complainant will present their case first, and be able to testify, present exhibits, call witnesses and/or (absent objection from the respondent) present witness statements. Next, the respondent may present their case, testify, present exhibits and call witnesses and/or (absent objection from complainant) present witness statements. There are some situations in which the complainant or respondent cannot or will not present their own case. In these situations, the Title IX Coordinator or a person designated by the Title IX Coordinator may appoint an administrator to present the case to the Review Board in the complainant's /respondent's stead. The complainant/respondent will be permitted to have input on the selection of that administrator but the Title IX Coordinator retains ultimate authority to appoint the administrator. Under this circumstance, the complainant/respondent still may be present throughout the entire proceeding.

The Review Board members are allowed to ask questions at any point throughout the hearing. Furthermore, the Review Board may recall the complainant, respondent, and any witness at any point to clarify a point or inquire further about relevant information. Neither the respondent nor the complainant may directly question the other during the hearing.

Questions to the other party must be directed to the Review Board chair who will review the questions and determine if they will be posed to the other party, and if so, the chair will ask the party the question. Prior sexual behavior/sexual history of the complainant are not relevant and will not be allowed to be presented during the hearing except with respect to the prior relationship between the complainant and the respondent.

The Decision Making Process

Once the hearing is concluded, the Review Board members will, after meeting in closed session, render a decision within 5 business days as to whether the respondent's actions constitute a violation of this policy. However, if they cannot reach a decision in that time the parties will be so notified and a time-frame will be provided for when the decision will be rendered. If necessary, prior to the decision being rendered, witnesses may be recalled for further questioning by the Review Board.

To find the respondent responsible for a violation of this policy, a majority of the Review Board must decide that a preponderance of the evidence establishes that the respondent's behavior constituted a violation of this policy. Preponderance of the evidence means that it is more likely than not that the respondent violated the policy. In the absence of a finding of a policy violation based upon a preponderance of the evidence, neither the complainant nor the respondent will be subject to disciplinary action. Once a decision is made, the Title IX Coordinator or a person designated by the Title IX Coordinator will inform the respondent and the complainant in the form of a letter which will include an explanation of the board's decision and any sanctions imposed by the review board.

Sanctions for Sexual and/or Relationship Misconduct

Typical sanctions for the above-referenced policy violations are as follows:

- Any student found responsible of a charge of a non-consensual sex act will face a recommended sanction of suspension or expulsion, depending on the severity of the incident and taking into account any previous disciplinary infractions.
- Any student found responsible of a charge of any other type of sexual and/or relationship misconduct will receive a recommended sanction ranging from warning to expulsion, depending on the severity of the incident and taking into account any previous disciplinary infractions.

The Sexual and Relationship Misconduct Review Board reserves the right to broaden or lessen or alter the range of recommended sanctions in the case of serious mitigating circumstances, egregiously or offensive behavior, or other compelling justifications.

In addition, depending on the decision of the Sexual and Relationship Misconduct Review Board, the Title IX Coordinator may provide remedies/accommodations to the complainant such as counseling, alternative living/working arrangements and academic accommodations. The Title IX Coordinator may also take certain measures for the benefit of the school community.

Both Title IX and FERPA permits a school to disclose to the harassed student information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly relates to the harassed student.

Time Frame

In most cases the above process will be concluded within sixty (60) days after the date of the official college report. However, if circumstances are such that the process will not be rendered in this time-frame the complainant and the respondent will be so advised and provided a revised time-frame for the conclusion of the process.

Appeal

Either the complainant or respondent may initiate an appeal for the following reasons:

- failure to adhere to proper procedures as outlined in this policy
- unusual conditions or the addition of new, relevant information
- excessive or inconsistent sanctions.

A student may not appeal based only upon dissatisfaction with an outcome or sanction. Additional information about the appeals process can be found in this Student Handbook.