

# Sexual Misconduct, Sexual Assault, and Sexual Harassment Involving Students [DRAFT]

Effective: [DRAFT]

Contact: Dean of Students Office - Division of Student Affairs

## Contents

### ► INTRODUCTION

### ► POLICY STATEMENT

#### Policy Scope and Jurisdiction

#### Confidentiality

#### Sexual Misconduct

- Sexual Assault
- Sexual Exploitation
- Sexual Intimidation
- Sexual Harassment

#### Reporting Sexual Misconduct, Sexual Assault, and Sexual Harassment

#### Immediate Actions by the University

#### Resources and Services for Students

- Confidential Advocacy and Support
- Campus Resources
- Community Resources

#### Retaliation

#### False Complaints

### ► RESOURCE LINKS

## 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 inappropriate and unjustified 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. 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 Diversity, 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.

[<Back to Top>](#)

## 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.

[<Back to Top>](#)

### 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 Thielien 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.

[<Back to Top>](#)

## 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:

[<Back to Top>](#)

## 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 when consent is not present:

- Sexual intercourse (vaginal, anal, oral)
- Oral sex
- Rape or attempted rape
- 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. Examples can include, but are not limited to the following behaviors:

- Electronic recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without knowledge and consent of all parties
- Voyeurism (sexual interest in spying on others)
- Distributing intimate or sexual information about another person without consent

## Sexual Intimidation

Sexual intimidation involves threatening to commit a sex act against another person, stalking, cyber-stalking, or engaging in indecent exposure.

## Sexual Harassment

Sexual harassment is a form of discrimination, as defined in the university Discrimination and Harassment policy. Sexual harassment can include unwelcome behavior (verbal, written, physical) that is directed at someone because of that person's sex or gender, and 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 has the purpose or effect of substantially interfering with the student's education or employment by creating an intimidating, hostile, or demeaning environment
  - Examples can include persistent efforts to develop a sexual relationship; 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.

[<Back to Top>](#)

## Reporting Sexual Misconduct, Including Sexual Assault and Sexual Harassment

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.

The university strongly encourages students to report concerns as follows:

- 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](mailto:dso@iastate.edu)).
  - In all situations, the university's goal is 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.
  - 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, 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, join the student in meetings, and make sure the student's expressed needs are being addressed.
  - 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 or staff, the investigation and adjudication may ultimately occur through the Office of the Executive Vice President and Provost (for faculty) or the Office of Equal Opportunity and Diversity (for non-faculty employees). For complaints against faculty, the Faculty Handbook will govern the process.
- 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 investigative and adjudication process at the same time the criminal process is proceeding.

## 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
- No-contact notices
- Modifying class or work schedules
- Making alternate housing arrangements
- Addressing other academic concerns (e.g., absences, assignments, grades, leaves of absence, withdrawal)

[<Back to Top>](#)

## 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 you confidentially as you consider your 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 your permission. Although the advocate is not a university employee, the advocate may accompany you 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.dps.iastate.edu/sart/> to file an online report with SART

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

Email: [sart@iastate.edu](mailto:sart@iastate.edu)

[<Back to Top>](#)

## 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 you would like to talk with someone after hours or on a weekend/holiday when Student Counseling Services is not open, you 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 you in filing formal complaints or, if you are not ready to file a formal complaint, the staff can work with you to address concerns over housing, class assignments or schedules, leaves of absence, withdrawal or other academic concerns. The office staff can also assist you in notifying ISU Police or local law enforcement, if you so request.

Contact information: [www.dso.iastate.edu/](http://www.dso.iastate.edu/)  
1010 Student Services Building  
515-294-1020

**Equal Opportunity and Diversity Office:** EOD staff can discuss concerns over sexual harassment and options for students.

Contact information: <http://www.hrs.iastate.edu/AAO/eod/homepage.shtml>  
3280 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](mailto:womenctr@iastate.edu)

**ISU Police Division:** Contacting ISU Police does not mean you must pursue criminal charges. ISU Police can advise you of your options, help preserve evidence while you consider your options, and assist you in safety planning.

Contact information: [http://www.dps.iastate.edu/?page\\_id=225](http://www.dps.iastate.edu/?page_id=225)  
Room 55 Armory  
Emergency phone: 911  
Non-emergency phone: 515-294-4428  
Safety Escort: 515-294-4444  
E-Mail: [isupolice@iastate.edu](mailto:isupolice@iastate.edu)

[<Back to Top>](#)

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## 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

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### **Ames Police Department**

Contact information: <http://www.cityofames.org/police/>  
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.storycounty.com/index.aspx?DN=23,6,1,Documents>  
1315 South B Avenue, Nevada, IA 50201  
515-382-6566

If outside the Ames area, call local law enforcement or sheriff.

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### **Story County Attorney's Office**

Contact information: <http://www.storycounty.com/index.aspx?DN=9,6,1,Documents>  
1315 South B Avenue, Nevada, IA 50201  
515-382-7255

See also the Story County Attorney's Office **Victim Assistance Program**, which can offer information on the criminal process and also help locate financial assistance for crime victims. <http://www.storycounty.com/index.aspx?DN=1666,9,6,1,Documents>

[<Back to Top>](#)

## 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 persons acting in support of or on behalf of that individual. Acts of retaliation are, by themselves, cause for disciplinary action.

## 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.

[<Back to Top>](#)

## Resource Links

### Policies and Guidance

[Discrimination and Harassment Policy-ISU](#)

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

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

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

[Training Information Contact](#)

[Student Disciplinary Regulations \[PDF\]](#), See Section 2: Student Rights and Responsibilities

[Student Disciplinary Regulations \[PDF\]](#), See Section 4: Conduct

[Student Disciplinary Regulations \[PDF\]](#), See Section 5: Process

[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](#)

[Equal Opportunity and Diversity Office](#)

[Executive 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 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](#)

[<Back to Top>](#)

## IOWA STATE UNIVERSITY

***Becoming the best.***

Ames, Iowa 50011, (515) 294-4111.

Published by: Policy Administrator ([policy@iastate.edu](mailto:policy@iastate.edu))

[Non-Discrimination Statement and Information Disclosures](#)

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