Guidelines for Supervisors

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Introduction and Purpose

Iowa State University is committed to providing an educational and working environment that is free from prohibited discrimination or harassment based on race, ethnicity, sex, pregnancy, color, religion, national origin, physical or mental disability, age (40 and over), marital status, sexual orientation, gender identity, status as a U.S. Veteran (disabled, Vietnam or other), or any other status protected by University policy or local, state, or federal law. The University’s policy governing these forms of prohibited behavior can be found on the Office of Equal Opportunity and Diversity web page or through the Policy Library.

The purpose of this guide is to provide Supervisors (i.e., central administrators, deans, directors, department chairs, supervisors, and managers), as well as any other employees (faculty, P&S, or merit) who may carry supervisory responsibilities over employees or students, with the information they need in order to respond appropriately to complaints of discrimination or harassment or requests for reasonable accommodation for disability or religious conflicts.
Responsibilities with respect to preventing and stopping discrimination or harassment

A. What is prohibited?

a. Sexual Harassment

i. What is it?

The University’s Discrimination and Harassment Policy provides the following definitions:

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 has the purpose or effect of substantially interfering 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.

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 kidding, 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 which are sexual in nature and which create a hostile or offensive work, education, or living environment.
ii. What about 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. 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.

b. Other forms of prohibited discrimination or harassment

i. What is it?

The University’s Discrimination and Harassment Policy provides the following definitions:

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, status as a
U.S. Veteran (disabled, Vietnam or other), or other protected class, that adversely affects their employment or education.

Iowa State University also prohibits harassment, which can be a form of discrimination if it is unwelcome and is sufficiently severe or pervasive so as to substantially interfere with a person’s work or education.

Harassment may include, but is not limited to, threats, physical contact, pranks, jokes, epithets, derogatory comments, vandalism, 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, or status as a U.S. veteran. Even if actions are not directed at specific persons, a hostile environment may be created when the conduct is sufficiently severe, pervasive or persistent so as to unreasonably interfere with or limit the ability of an individual to work, study, or otherwise to participate in activities of the university.

c. 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 resolution process, is a violation of University policy, and any such action is itself cause for disciplinary action.

B. What are my responsibilities as a supervisor with respect to discrimination and harassment?

a. If you witness discrimination or harassment in your work area, you should address it immediately. Consult with the Office of Equal Opportunity and Diversity if you require assistance in how to best address the situation.
   i. Training and education can be provided for individuals or for work units and departments.
   ii. On-line training through Access Plus can be a convenient, valuable tool to introduce and/or remind your employees of the problem of discrimination and harassment.
   iii. Counseling and disciplinary measures may be necessary. Be certain you abide by all appropriate handbooks for such discipline (e.g., Faculty Conduct Policy, P&S Handbook, Collective Bargaining Agreement, Merit Rules). Contact Human Resource Services, the Office of Equal Opportunity and Diversity, or the Provost Office (for faculty concerns) for assistance.
iv. If you become aware of possible discrimination or harassment but there is no informal or formal complaint, you should inform the Office of Equal Opportunity and Diversity. The University may take Direct Institutional Action to remedy the situation, as explained in the University’s Discrimination and Harassment Policy.

b. If you receive a complaint of discrimination or harassment, you must promptly notify the Office of Equal Opportunity and Diversity. Notifying the Office of Equal Opportunity and Diversity is not a breach of confidentiality. It is an important way to ensure responsive and consistent application of the policy, to ascertain if the behavior may be of a repetitive nature, and to assist you in responding appropriately.

c. In addition, you should ask the complainant if he or she wishes to file a formal complaint or discuss the matter informally with you – both avenues are explained in the Discrimination and Harassment Policy. University policy governing all forms of discrimination and harassment directs complainants to bring informal complaints to the supervisor of the accused person. If you nonetheless receive a complaint against someone you do not supervise, you still should report the complaint so that it does not go unanswered.

   i. If the complainant wishes to proceed formally, direct him or her to the Office of Equal Opportunity and Diversity (or the Provost Office if the accused is a faculty member) to file a signed, written complaint.

      1. You must inform the Office of Equal Opportunity and Diversity of this communication.

      2. You should also consider directing the complainant to the Office of Equal Opportunity and Diversity web page so he or she can review other resources, such as the Employee Assistance Program, Student Counseling Services, or a Discrimination & Harassment Assistor.

      3. Once a complaint is filed with the Office of Equal Opportunity and Diversity, it will be assessed and, if an investigation is warranted, the case will be assigned for investigation to a staff member or designee. If the accused is a faculty member, the investigation will proceed before a Faculty Review Board according to the Faculty Conduct Policy. In both cases, the accused will be notified of the complaint.

      4. If the complaint is against an employee under your supervision who is not faculty, you will be notified when the investigation is complete. The Office of Equal Opportunity and Diversity will meet with you to discuss the findings and appropriate discipline if necessary. You must notify the Office of Equal Opportunity and Diversity in writing as to whether you accept the findings and what action, if any, will be taken in response. If the accused is a faculty member, the Faculty Review Board will make a recommendation to the Provost as described in the Faculty Conduct Policy.
ii. If the complainant wishes to proceed informally with you, you must so inform the Office of Equal Opportunity and Diversity to ensure responsiveness and consistent application of the policy. 

1. You should listen to the complainant’s concerns and wishes and then discuss options for resolving the problem.

2. The informal complaint process does not involve formal investigation of witnesses. Rather, you are working with the complainant to determine whether there are measures that can be taken to solve the problem.
   a. For example, with the complainant’s consent you may speak with the accused to discuss the problem. The accused may or may not be aware that the behavior in question is offensive. Communication can often resolve many problems.
   b. Other options for informal resolution may include advising the complainant about methods to resolve the concern, arranging educational programs for individuals or programs, helping modify a work or study situation, mediating between the parties, or intervening or arranging for a third party to intervene.
   c. You should not impose discipline against an accused person as a result of the informal process unless you first consult with the Office of Equal Opportunity and Diversity. Imposing discipline may require a more detailed investigation according to personnel handbooks.

3. If you require assistance, you should consult with the Office of Equal Opportunity and Diversity or the Provost office. Not all complaints are appropriate for informal resolution. If the conduct is severe, threatening, repetitive, or involves physical assault or behavior, you must inform the Office of Equal Opportunity and Diversity to determine whether a formal investigation is warranted.

4. You should attempt to resolve the matter within three weeks of receiving the complaint.
   a. You must notify the Office of Equal Opportunity and Diversity of the resolution of the complaint.
   b. If the matter cannot be resolved, you should direct the complainant to the Office of Equal Opportunity and Diversity for assistance in filing a complaint or discussing alternative solutions.

5. You cannot promise complete confidentiality to the complainant. If you are aware of the behavior, steps need to be taken to correct the situation. This is why you must notify the Office of Equal Opportunity and Diversity if you receive a complaint. Similarly, this is why you should take action
to correct prohibited behavior if you witness it or otherwise learn it is occurring. The informal process is an alternative to a formal investigation so that the complainant has the option of addressing his or her concerns promptly, effectively, and without the possible stress of a formal process. Therapists, doctors, clergy members, or lawyers are the only persons who can promise complete confidentiality. As a supervisor, you will keep the matter confidential to the extent possible to address the concern.

C. What are my responsibilities with respect to requests for reasonable accommodations in the workplace or academic setting?

a. Requests for Reasonable Accommodation of Disabilities
   i. Individuals with physical or mental impairments who are otherwise qualified to perform their work or pursue their studies may request reasonable accommodations to enable them to work or continue their studies. The Americans with Disabilities Act, the Rehabilitation Act, and Iowa’s Civil Rights Act enables covered individuals to receive accommodations so long as the accommodations are reasonable and do not cause an undue hardship or fundamentally alter the academic program. An individual’s specific request for accommodation may not necessarily be granted if there are other effective means of achieving the same result. In all instances, documentation will be required to substantiate the need for an accommodation.
   ii. It can be a form of discrimination to wrongfully deny a reasonable accommodation to a covered individual.
   iii. Employees are advised to speak with their supervisors if they require an accommodation in the workplace and to complete a Disability Accommodation Request form.
      1. You should consult with Human Resource Services or the Office of Equal Opportunity and Diversity if you require assistance in determining the following:
         a. Whether the individual may have a covered disability
         b. Whether the individual has provided adequate documentation of the disability and need for accommodation
         c. What kinds of accommodations are available. This will involve an ongoing, interactive discussion with you and the employee making the request to determine whether an accommodation is effective and whether the accommodation poses an undue hardship.
      2. Ongoing communication with the employee is essential.
3. Accommodations can take a variety of forms. Everyone is advised to “think outside the box” in an effort to find a reasonable accommodation.

iv. Students with disabilities must contact Disability Resource Services to be eligible for an academic accommodation. If you are a professor and receive a written request from a student for an academic accommodation (e.g., alternative testing), you may consult with Disability Resource Services or the Office of Equal Opportunity and Diversity in your determination of whether the requested accommodation is reasonable or whether it would fundamentally alter the nature of your program.

1. Consider consulting the Disability Liaison in your college or department.

v. Retaliation against a person who requests an accommodation is not permitted and will lead to discipline.

b. Requests for Reasonable Accommodation of Religious Beliefs
   i. Individuals with sincerely held religious beliefs may request accommodation to their work or education if their religious practices conflict with work or education requirements. Employees are instructed to inform their supervisors of such conflicts and their desired accommodations.

   ii. It can be a form of discrimination to wrongfully deny a reasonable accommodation.

   iii. You should listen to and consider the request. Consult Human Resource Services or the Office of Equal Opportunity and Diversity if you require assistance.

   iv. You should attempt to alleviate the conflict, but accommodations that pose an undue hardship are not required. You should attempt to discuss alternatives if the requested accommodation poses such a hardship.

   v. Retaliation against a person who requests an accommodation is not permitted and will lead to discipline.
How to Help Ensure the Prompt and Effective Handling of Complaints

- **Be available to meet with and listen to the complainant.**

  You may be the first person that an employee or student seeks about a possible problem with discrimination or harassment. Therefore, it is important that you make yourself accessible so that any problems with discrimination or harassment can be reported as soon as possible. While you should be empathetic when you listen to a complaint, there is no need for you to offer an opinion as to whether there has been a violation of the University’s policy or the law when you only know one side of the story – that is what investigations are for.

- **Be able to give the Complainant information about the University’s procedures for handling complaints of discrimination and harassment.**

  As a person who may receive a complaint of discrimination or harassment, you should be familiar with the University’s [Discrimination and Harassment Policy](#). You should be able to provide the complainant general information about how the University may handle a complaint, or, at a minimum, direct the complainant to someone who can provide such information. You should take the on-line training of the University policy through [Access Plus](#), click on Web-based training.

- **Refer the Complainant to the appropriate office as soon as possible.**

  Whenever you receive a complaint of discrimination or harassment, you must notify the Office of Equal Opportunity and Diversity. If the complainant wishes to make a formal complaint, you should direct him or her to the Office of Equal Opportunity and Diversity. If the complaint is against a faculty member, you may also direct the complainant to the Provost’s office.

- **Document your meeting and actions.**
It is recommended that you briefly document the initial complaint, the informal process and resolution, or the referral of a formal complaint. Dates are always important to include in your records.

- **Be aware of Confidentiality concerns.**

  The University cannot promise total confidentiality to persons making discrimination or harassment complaints; however, it is the University’s practice to maintain the confidentiality of those complaints to the extent permitted by law. Therefore, information about the complaint and the complainant should be disclosed only to administrative supervisors or other persons within the University who need to know in order to aid in complaint resolution or who have an official need to know about the complaint.

- **Know about your own risk for liability or discipline.**

  Under certain circumstances, supervisors can be held liable under Iowa’s Civil Rights Act for discrimination or harassment. Similarly, supervisors may face discipline for ignoring their responsibilities under the University’s policy governing discrimination and harassment.

- **Call for Help or Information.**

  Do not hesitate to contact the Office of Equal Opportunity and Diversity or the Office of University Counsel if you would like any information or assistance with respect to preventing or stopping discrimination or harassment.