

## ***Title IX: Sexual Misconduct Policy***

1. The University of Dubuque is committed to providing a learning, working, and living environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex; which includes all forms of sexual misconduct. Sexual misconduct violates an individual's fundamental rights and personal dignity. The University of Dubuque considers sexual misconduct in all its forms to be a serious offense. This policy refers to all forms of sexual misconduct, including but not limited to: sexual discrimination, sexual harassment, sexual assault, and sexual violence by employees, students, or third parties.
2. Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. To ensure compliance with Title IX and other federal and state civil rights laws, the University has developed policies and procedures that prohibit sexual misconduct in all of its forms.

3. Title IX Statement on Non-Discrimination:

- 3.1 The University of Dubuque does not discriminate on the basis of race, color, creed, age, gender, sexual orientation, religion, national origin, veteran status, physical or mental disability, genetic information, or any other basis of prohibited discrimination in its programs and activities. This policy extends to employment with and admission to the University. The following person(s) have been designated to handle inquiries regarding the non-discrimination policies:

Ms. Julie MacTaggart, Director of Human Resources, Senior Title IX Chair  
University of Dubuque, 2000 University Avenue, Dubuque, IA 52001  
Office Location: 205 Smith Hall  
Phone: 563.589.3619  
Email: [JMacTaggart@dbq.edu](mailto:JMacTaggart@dbq.edu)

Mr. Michael Durnin, Dean of Student Formation, Title IX Coordinator  
University of Dubuque, 2000 University Avenue, Dubuque, IA 52001  
Office Location: 201 Peters Commons  
Phone: 563.589.3270  
Email: [MDurnin@dbq.edu](mailto:MDurnin@dbq.edu)

Mr. Rick Merfeld, Assistant Dean/Director of Residence Life, Title IX Coordinator  
University of Dubuque, 2000 University Avenue, Dubuque, IA 52001  
Office Location: 204 Peters Commons  
Phone: 563.589.3438  
Email: [RMerfeld@dbq.edu](mailto:RMerfeld@dbq.edu)

4. Guidance on reporting

- 4.1. The University of Dubuque encourages those who have experienced any form of sexual misconduct to report the incident promptly, to seek all available assistance, and to pursue University conduct charges and criminal prosecution of the offender. The University takes complaints very seriously and will work with survivors to ensure their safety and to remedy the situation.

5. Whom to file a report or make a complaint to:

5.1. The University encourages those who have experienced sexual misconduct to report these offenses to either the Campus Safety & Security or a Title IX Coordinator; those who want to make a complaint have the right, however, not to provide a statement to Campus Safety & Security.

5.2. Campus Safety & Security (563.589.3333)  
Persons who wish to make a report may contact Campus Security  
Phone: 563.589.3333  
Office: 112 Smith Hall  
Address: 2000 University Avenue, Dubuque, IA 52001

5.3. Title IX Coordinator(s)  
Persons who wish to report any form of sexual misconduct may contact the University's Title IX Coordinator(s). The Title IX Coordinator(s) can assist with all aspects of the reporting procedure and will conduct an investigation into a complaint. Employees of the University can also make an initial report to their immediate supervisor who must report it to the Director for Human Resources.

Employees who believe they have either witnessed or been subjected to unlawful sexual misconduct should notify one of the following: the Director of Human Resources or the Dean of Student Formation if a student is involved.

5.4. Director of Human Resources (Julie MacTaggart, 563.589.3619)  
Address: 2000 University Avenue, Dubuque, IA 52001  
Office Location: 205 Smith Hall  
Phone: 563.589.3619  
Email: [JMacTaggart@dbq.edu](mailto:JMacTaggart@dbq.edu)

5.5. Dean of Student Formation (Mr. Michael Durnin, 563.589.3270)  
Address: 2000 University Avenue, Dubuque, Iowa 52001  
Office Location: 201 Peters Commons  
Phone: 563.589.3270  
Email: [MDurnin@dbq.edu](mailto:MDurnin@dbq.edu)

6. Guidance on taking immediate action

6.1. It is essential that you first ensure your safety. The following are resources you may contact for assistance and support:

- City of Dubuque Police Department – 911
- University of Dubuque's Campus Safety & Security – 563.589.3333
- Dubuque Hospital Emergency Rooms
  - UnityPoint Health Finley Hospital – 563.582.1881  
350 North Grandview Ave. Dubuque, IA 52001
  - Mercy Medical Center – 563.589.9666  
250 Mercy Drive, Dubuque, IA 52001
- University of Dubuque's Title IX Coordinator
- University of Dubuque's Counseling Center – 563.589.3132

- Riverview Center's toll free Crisis Line (available 24/7) – 888.557.0310
- University of Dubuque's Student Life Incident Reporting System (Maxient) at [https://cm.maxient.com/reportingform.php?UnivofDubuque&layout\\_id=1](https://cm.maxient.com/reportingform.php?UnivofDubuque&layout_id=1).
- Campus Safety & Security and the Title IX Coordinator can provide immediate referral information, access to the University counselor on-call, and/or investigation assistance. If the incident occurred outside of the City of Dubuque, nationally or internationally, Dubuque Law Enforcement and/or University personnel can assist you in contacting appropriate resources for reporting purposes and support.

- 6.2. When necessary, seek immediate medical attention at an area hospital. All medical treatment following a reported sexual assault is **free**. Sexual assault medical care is paid for by the Iowa Crime Victim Assistance Division. Medical care following a sexual assault may include the following services: sexual assault examination kit, pregnancy prevention, STD treatment, antibiotics, and any further necessary treatment of injuries.
- 6.3. The following preservation procedures will help preserve evidence in the event that a sexual assault occurred and a survivor chooses to move forward with a sexual assault examination kit. The decision to press charges does not have to be made at this time. However, following these procedures will help preserve this option for the future. First and most importantly, ensure that your safety and basic needs are met. Preservation procedures include avoiding bathing, urinating, douching, brushing teeth, or drinking liquids. If possible, clothes should not be changed but if they are bring all the original clothing to the hospital in a bag. Any other evidentiary materials that may be useful for an investigative process may also be collected.
- 6.4. A Riverview Center advocate will offer support at the hospital and law enforcement centers to provide free and confidential options for legal, medical, and personal advocacy. Advocates will ensure that survivor's rights are protected. Advocates are available for emergency assistance 24/7.
- 6.5. Survivors may choose whether or not to speak to the police at the hospital to make a formal report. A survivor may choose to make a report for evidentiary purposes but not go forth with an investigation at that time. The option to investigate remains for up to 10 years following an incident.
- 6.6. Survivors may choose to see a private physician. Private physicians are not required to notify the police, however, they are required to notify police if a sexual assault examination kit is performed for purposes of maintaining evidentiary chain of custody.

## 7. Grievance Procedure

- 7.1. All incidents of sex misconduct, including sexual discriminations or retaliation, can be reported. The Title IX Coordinator will provide an impartial investigation of all complaints.
- 7.2. The University has developed both an informal and formal complaint and resolution procedure to respond to sexual misconduct.
- 7.3. The University shall take reasonable steps to prevent the occurrence of sexual misconduct of any form. If such an occurrence takes place, those responsible for such behavior may be subject to actions under the Student Code of Conduct (Student Handbook) if they are a student. Employees or third parties may be subject to actions under the Employee. For

examples of the range of potential actions and sanctions, see the [Student Handbook](#) or the [Faculty Handbook](#) or the [Employee Handbook](#).

## 8. Informal Procedure

- 8.1. Informal resolution procedures are optional and may be used when the University determines that it is appropriate. Informal procedures are never applied in cases involving violence or non-consensual sexual intercourse. Some complaints of sexual misconduct can be resolved through informal mediation between the parties.
- 8.2. Some complaints of sexual misconduct can be resolved through informal mediation between the parties.
- 8.3. Once a report of sexual misconduct has been made, informal resolution procedures will be pursued by a Title IX Coordinator typically within seven calendar days or within a reasonable amount of time required to complete the investigation. For reports involving allegations against University employees, a Title IX Coordinator and Director of Human Resources shall jointly conduct an investigation.
- 8.4. Once the informal resolution procedure is complete, written notification to all parties shall be given by the Title IX Coordinator within one day of the determinations of findings.
- 8.5. The University will take all necessary steps to accommodate the needs of the survivor(s) and others. Examples of such survivor sensitive accommodations may include: order of no contact, residence hall relocation, and adjustment of schedule. These accommodations may be applied to one, both, or multiple parties involved.
- 8.6. The University shall take reasonable steps to prevent the reoccurrence of sexual misconduct of any form. If such reoccurrence takes place, those responsible for such behavior may be subject to actions under the Student Code of Conduct ([Student Handbook](#)) if they are a student. Employees or third parties may be subject to actions under the Employee policies. For examples of the range of potential actions and sanctions see the [Student Handbook](#), [Faculty Handbook](#), or [Employee Handbook](#).
- 8.7. The use of the informal complaint and resolution procedure is optional. In instances where parties involved do not wish to engage in the informal procedure, where informal resolution is not appropriate, or in situations where attempts at the informal procedure are unsuccessful, the formal procedure may be followed.

## 9. Formal Procedure

### 9.1. Time Limitations

- 9.1.1. In order to pursue action through the University of Dubuque's grievance procedure, an aggrieved student or employee should meet with a Title IX Coordinator, or the Director of Human Resources, as the case may be, as soon as possible after the alleged act of sexual misconduct, harassment, or retaliation occurs, to discuss the complaint. In any case, there is no time limit for students to make a report. Employees who have experienced conduct they believe is contrary to this policy have an obligation to make a report. An employee's failure to fulfill this obligation may affect his or her rights in pursuing legal action. Employees are required to file reports within 24 hours.

- 9.2. Once a complaint of sexual misconduct is made, an investigation of the report shall be pursued typically within seven calendar days or within a reasonable amount of time required to complete the investigation. The investigation will be conducted in an impartial manner.
- 9.2. To ensure a prompt and thorough investigation, as much of the following information as possible should be provided:
  - 9.2.1. The name, department, and position of the person or persons allegedly causing the sexual misconduct, which includes sexual or gender discrimination, sexual violence, harassment, or retaliation.
  - 9.2.2. A description of the incident, including the date, location, and the presence of any witnesses.
  - 9.2.3. If the complainant is an employee: the alleged effect of the incident on the complainant's position, salary, benefits, promotional opportunities, or other terms or conditions of employment.
  - 9.2.4. The names of other students or employees who might have been subject to the same or similar sexual misconduct, sexual or gender discrimination, or retaliation.
  - 9.2.5. Any steps the complainant has taken to try to stop the sexual misconduct, sexual or gender discrimination, or retaliation.
  - 9.2.6. Any other information the complainant believes to be relevant to the sexual misconduct, sexual or gender discrimination, harassment, or retaliation.
- 9.3. Investigation
  - 9.3.1. An investigation into the report shall be conducted by a Title IX Coordinator. For reports involving University employees and/or third parties, a Title IX Coordinator and Director of Human Resources shall jointly conduct the investigation. The investigation shall be concluded as quickly as possible, typically within seven calendar days or within a reasonable amount of time required to complete the investigation. The investigation will be conducted in an impartial manner.
  - 9.3.2. The investigation may include interviewing the parties involved, including witnesses, and the gathering of other relevant information.
  - 9.3.3. Complainant may present witnesses and other evidence.
  - 9.3.4. At any time during the investigation, the investigator may recommend that interim protections or accommodations for the parties involved or witnesses be provided by appropriate University officials. These protections or accommodations may include separating the parties, placing limitations on contact between the parties, suspension, or making alternative workplace or student housing arrangements.
  - 9.3.5. Failure to comply with the terms of interim protections may be considered a separate violation of the Student Code of Conduct.
- 9.4. Cooperation with Law Enforcement
  - 9.4.1. The University will comply with law enforcement requests for cooperation and such cooperation may require the University to temporarily suspend the fact finding aspect

of a Title IX investigation while the law enforcement agency is in the process of gathering evidence. The University will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process although the delay in the University's investigation may be longer in certain instances.

9.4.2. The University will implement appropriate interim steps during the law enforcement investigation period to provide for the safety of the survivor(s) and the campus community and the avoidance of retaliation.

- 9.5. A resolution shall be determined at the conclusion of the investigation. Parties involved will be given notice of the outcome in writing typically within one day of the determination.
- 9.6. The complainant may appeal the findings of the investigation. All grounds for appeal shall be based on the emergence of new evidence that was previously unavailable, or based on the grounds that some aspect of this policy or procedure was not adequately followed. All appeals will be conducted in an impartial manner by one of the persons in the following positions who did not conduct the initial investigation: the Vice President/Dean of Student Life or Assistant Dean/Director of Residence Life.
- 9.7. The University shall take reasonable steps to prevent the reoccurrence of sexual misconduct of any form. If such reoccurrence takes place, those responsible for such behavior may be subject to actions under the Student Code of Conduct in the Student Handbook if they are a student. Employees or third parties may be subject to actions under the Employee policies. For examples of the range of potential actions and sanctions see the [Student Handbook](#), [Faculty Handbook](#), or the [Employee Handbook](#).
- 9.8. The University will take all necessary steps to accommodate the needs of the survivor(s) and others. Examples of such survivor sensitive accommodations may include: order of no contact, residence hall relocation, and adjustment of schedule. These accommodations may be applied to one, both, or multiple parties involved.

## 10. Definitions and Examples of Sexual Misconduct.

- 10.1. Sexual Misconduct: any sexual behaviors that violates the University of Dubuque's Code of Conduct and/or Title IX Policy. Prohibited conduct under this Sexual Misconduct Policy includes:
- 10.2. Non-Consensual Sexual Contact: any intentional sexual touching, however slight, with any object or body part, by a man or a woman upon a man or a woman, without consent.
- 10.3. Non-Consensual Sexual Intercourse: any sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a man or woman upon a man or a woman, without consent
- 10.4. Forced Sexual Intercourse: Unwilling or non-consensual sexual penetration (anal, vaginal or oral) by a man or woman upon a man or a woman with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another's mental or physical condition of which the assailant was aware or should have been aware.
- 10.5. Sexual or Gender Discrimination: behaviors and actions that deny or limit a person's ability to benefit from, and/or fully participate in the educational programs or activities or employment opportunities because of a person's sex, sexual orientation, or gender.

10.5.1. Examples of sexual discrimination under Title IX include, but are not limited to, sexual harassment, failure to provide equal opportunity in education programs and co-curricular programs including athletics, discrimination based on pregnancy, and employment discrimination.

10.6. Sexual Harassment: unwanted sexual advances, requests for sexual favors, and/or visual, verbal, or physical conduct of a sexual nature by a man or a woman upon a man or a woman when: (1) submission to such conduct is made a term or condition of employment or the educational relationship; (2) submission to or rejection of such conduct is used as a basis for employment or education decisions affecting the individual; or (3) such conduct has the effect of unreasonably interfering with a student's or employee's work performance or creating an intimidating, hostile, annoying, or offensive working, educational, or living environment. Although harassment may involve a person in a greater position of authority as the harasser but may also be a person in a lesser or equal position of authority can be found responsible for engaging in prohibited harassment. Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered separately would not rise to the level of harassment.

While sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include:

10.6.1. Promising, threatening, or denying, directly or indirectly, a student or employee a reward, if the student or employee complies with a sexually oriented request.

10.6.2. Displaying pornographic or sexually oriented materials.

10.6.3. Engaging in indecent exposure.

10.6.4. Making sexual or romantic advances toward a student or employee and persisting despite the student or employee's rejection of the advances.

10.6.5. Physical conduct such as blocking normal movement or following.

10.6.6. Retaliation for making harassment reports or threatening to report harassment.

10.6.7. Engaging in sexually suggestive conversation or physical contact or touching another student or employee.

10.7. Sexual Exploitation: when a student takes non-consensual or abusive sexual advantage of another for his/her own benefit, or to benefit any other third party other than the one being directly exploited.

10.7.1. Examples of sexual exploitation include, but are not limited to: prostituting another student; non-consensual video or audiotaping of sexual activity; non-consensual photos of another who is partially or fully nude, disseminating photos, videos, or audio recordings, going beyond the boundaries of consent (such as letting a third party observe or watch any sexual encounter without the knowledge of one or more parties); engaging in Voyeurism; knowingly transmitting an STD or HIV to another.

10.8. Stalking: Stalking is an unwelcome pursuit. It is a tactic of control exerted by one party over another. Stalking is a violation of the University's Misconduct Policy. Stalking often

includes the use of technology, such as phones, texting, cameras, social networking sites, and email.

10.9. Sexual Activity: intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice. Intercourse, however slight, meaning vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact or genital to mouth contact).

10.10. Consent: an informed, freely, and actively given communication that is mutually understood between all persons involved in a sexual encounter. Consent is active, not passive. Consent is verbally communicated and silence cannot be interpreted as consent. It is the responsibility of the initiator of sexual contact to make sure they understand fully what the person with whom they are involved wants and does not want sexually. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous relationships or consent does not imply consent to future sexual acts.

10.9.1. Consent cannot be obtained by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another.

10.9.2. Effective consent is the basis of the analysis applied to unwelcome sexual contact. Lack of consent is the critical factor in any incident of sexual misconduct.

10.9.2.1. Effective consent cannot be given by an individual under the legal age of consent in Iowa, mentally disabled individuals in dependent care and/or who are (by diagnosis) unable to process and communicate effective consent, person's incapacitated as a result of drugs, alcohol, or date rape drug, someone who is unconsciousness or someone in a state of blackout. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand parameters of their sexual interaction.

10.11. Date Rape Drugs: Any drug that contains an incapacitating agent or is used in order to incapacitate another into submission or compliance. Possession, use, distribution and/or administering of any of these substances is prohibited and is a violation of this policy. Common date rape drugs include alcohol, Rohypnol (roofies), Ketamine (Special K), MDMA (ecstasy), and/or GHB (liquid ecstasy). Other substances used as date rape drugs include but are not limited to recreational drugs (marijuana, cocaine, ethanol, etc.) hypnotics, sedatives, sleep aids, and anti-depressants or anti-anxiety medications.

## 12. Support Services

12.1. There are various supportive measures available for those who have experienced sex misconduct. These support sources include:

- Title IX Coordinators serve as the central reference persons for information about reporting and the investigative procedure, as well as references for counseling options.



- University's Counseling Center (563.589.3132) is available for students who have experienced any form of sexual misconduct may receive free and confidential counseling.
- Riverview Center (1.888.557.0310) is available 24/7 for free and confidential crisis intervention, counseling, and advocacy.
- University of Dubuque employees may contact the Human Resources office or reference the Employee Handbook for information regarding counseling options.
- Reassignments: When the survivor and the accused student participate in the same courses, reside in the same University residence or in proximity to one another, or participate in the same activities (i.e., sports teams) survivors may request that a fair and immediate way to reassign and/or move one of the persons be decided upon by the Vice President/Dean of Student Life or a designee.
- The Dean of Student Formation Life will consult with the appropriate academic dean in making a determination regarding an alternative classroom assignment(s) for the accused student and/or the survivor who has experienced a sexual misconduct and with the Director of Residence Life in making a determination regarding an alternative housing assignment.
  - When a student employee makes a report and the accused work in the same department or area, alternative work assignments may be made by the appropriate administrator upon request by the student employee filing the complaint.

### 13. Retaliation

13.1. Retaliation: any action by any person that is perceived as: intimidating, hostile, harassing, retribution, or violent that occurred in connection to the making and investigation of a report of sexual misconduct

13.1.1. The University of Dubuque strictly prohibits retaliation against any person for, in good faith, using this reporting procedure or for filing, testifying, assisting or participating in any investigation or proceeding involving allegations of sexual misconduct. Any person who violates this policy will be subject to discipline, up to and including termination if they are an employee and/or dismissal if they are a student.

### 14. Confidentiality

14.1. Those who have experienced sexual misconduct should know that all University employees (Resident Assistants, Campus Safety & Security, staff members, etc.) excluding licensed professionals from the University Counseling Center and the professionals in Campus Ministry, must relay disclosures of sexual assault to the police, either directly or through Campus Safety. Because licensed professionals from the University Counseling Center and professionals in Campus Ministry are not required to disclose knowledge of sexual misconduct reported to them, those who wish to discuss a situation in complete confidence should notify only the Counseling Center or Campus Ministry. Counseling services and pastoral care are available for persons affected by a sexual misconduct. Situations where confidentiality may be breached:

- You choose to allow certain information to be shared with specific individual(s) and you sign a release of information allowing staff to share that information.

- There is serious and foreseeable harm to yourself or others and the staff need to share information for your protection or that of someone else.
- If you report witnessing or experiencing some form of child abuse firsthand, counselors are mandated by law to report suspected child abuse.
- Court subpoena of records.

- 14.2. If you would like to report an incident or speak to someone and you desire that details of the incident be kept confidential, you should speak with members of the Counseling Center, the Campus Chaplain, or Riverview Center, who will maintain confidentiality to the extent permitted by law. Both Campus counselors and Riverview Center advocates are available to help you free of charge, and can be seen on an emergency basis. In addition, you may speak both on and off campus with clergy and chaplains.
- 14.3. All inquiries, complaints, and investigations are treated with discretion. Information will be shared only as law and policy require. However, the identity of the complainant is usually revealed to the person(s) accused of such conduct and any witnesses. Publicizing information about alleged sexual misconduct or retaliation is strictly prohibited and may be considered a violation of University policy.
- 14.4. The Title IX Chair shall maintain all information in secure files pertaining to a complaint or investigation.
- 14.4.1. Federal Statistical Reporting Obligations: Certain campus officials have a duty to report violations of this policy for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to campus security regarding the type of incident and its general location (on or off-campus, or in the surrounding area without addresses) for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime to ensure greater community safety.
- 14.4.2. Federal Timely Warning Reporting Obligations: Survivors of sexual misconduct should also be aware that University administrators must issue timely warnings for certain types of incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community under the federal Clery Act. The University will make every effort to ensure that a survivor's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

## 15. Intersection with the Student Conduct Process

- 15.1. For reports of violations of this policy in which the complaint involves students, the complainant may also initiate charges through the Student Conduct Process found in the Student Handbook. As stated in that policy, any member of the University community may initiate charges against a student. In instances when a student conduct complaint is made, a conduct hearing shall be scheduled typically within seven calendar days or within a reasonable amount of time. The investigation will be conducted in a manner so that it is adequate, reliable, and impartial. The purpose of the student conduct hearing is to determine responsibility for any alleged charges. This policy will be followed in accordance with the Student Conduct Process as it relates to the Title IX policy.

15.2. Determining Responsibility in a Student Conduct hearing:

15.2.1. The standard used to determine accountability will be whether it is more likely than not that the accused has violated the Student Code of Conduct policy. All members of the University community found to have violated this policy will be sanctioned, up to dismissal from the University.

15.2.2. The complainant's rights in a Student Conduct hearing:

- An explanation of available options for redress;
- Freedom from harassment by the accused (or the supporters);
- Use of all available internal and external support services in dealing with the aftermath of the offense;
- Ability to speak on their own behalf during the disciplinary proceedings, including making a "survivor impact" statement to a hearing board or University disciplinary panel;
- The presence of an advisor from the University community and/or a support person during the disciplinary hearing;
- The opportunity to present witnesses who can speak about the charges, character witnesses excluded;
- Attend the entire disciplinary hearing except for the deliberation phase; • Testify on his/her own behalf;
- Freedom from having irrelevant sexual history discussed during the disciplinary hearing;
- Information about the outcome of the disciplinary hearing; and
- Opportunity to appeal the outcome of the hearing.

15.2.3. The rights of an accused in a Student Conduct hearing: The University will treat an accused person with fairness throughout the disciplinary proceedings. Specifically, accused persons are entitled to:

- An explanation of the charge(s);
- Freedom from harassment by the complainant (or supporters);
- An explanation of the University discipline system;
- The presence of an advisor from the University community;
- Testify on his/her own behalf;
- Present witnesses who can speak about the charges, character witnesses excluded;
- Freedom from having irrelevant sexual history discussed during the disciplinary hearing;
- Information about the outcome of the disciplinary hearing; and
- Opportunity to appeal the outcome of the hearing.

15.3. At the conclusion of the Student Conduct hearing process, the University will provide written notification to the parties involved of the outcome and resolution of the hearing typically within seven calendar days.

15.4. Appeals shall follow the Student Conduct Procedure. The appellate body may not be the hearing officer or member of the Conduct Board in the original hearing.

15.5. There is no conflict between this Title IX Policy and the Student Conduct process.

## 16. Consequences

- 16.1. The University reserves the right to take whatever measures it deems necessary in response to an allegation of sexual misconduct in order to protect students' rights and personal safety.
  - 16.1.1. Such measures include, but are not limited to, modification of living arrangements, interim suspension from campus pending a hearing, and reporting to the police.
- 16.3. Not all forms of sexual misconduct will be deemed to be equally serious offenses, and the University reserves the right to impose differing sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense.

## 17. Special Provisions

### 17.1. Attempted violations

- 17.1.1. In most circumstances, the University will treat attempts to commit any of the violations listed in this policy or in the Student Code of Conduct as if those attempts had been completed.

### 17.2. The University as complainant

- 17.2.1. As necessary, the University reserves the right to initiate a student conduct complaint, to serve as complainant, and to initiate conduct proceedings without a formal complaint by the survivor or complainant.

### 17.3. False Reports

- 17.3.1. The University will not tolerate intentional false reporting of incidents. It is a violation of the Student Code of conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws. Violations will result in sanctions, ranging from verbal warning to expulsion, depending on the severity of the offense.

### 17.4. Immunity for Survivors

- 17.4.1. The University community encourages the reporting of sexual misconduct and Code of Conduct violations. Survivors may be hesitant to report to University officials because they fear that they may be charged with policy violations, such as underage drinking at the time of the incident. It is encouraged that survivors choose to report to University officials to ensure that they receive adequate resources. The University pursues a policy of offering survivors of sexual misconduct limited immunity from being charged with policy violations related to the particular incident. While violations to policy cannot be completely overlooked, the University will provide educational options rather than punishment, in such cases.

### 17.5. Good Samaritan

- 17.5.1. The welfare of students in our community is of paramount importance. At times, students on and off-campus may need assistance. The University encourages students to offer help and assistance to others in need. Students may hesitate to offer assistance to others, for fear that they may get themselves in trouble (for example, as student who has been drinking underage might hesitate to help take a survivor of sexual misconduct to Campus Safety & Security.) The University pursues a policy of limited

immunity for students who offer help to others in need. While policy violations cannot be overlooked, the University will provide educational options, rather than punishment, to those who offer their assistance to others in need.

#### 17.6. Parental Notification

17.6.1. The University reserves the right to notify parents/guardians of dependent students regarding any health or safety emergency, change in student status or conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the University will contact parents/guardians to inform them of situations in which there is a health or safety emergency. The University also reserves the right to designate which University officials have a need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act.

#### 17.7. Notification of Outcomes

17.7.1. The outcome of a Title IX investigation involving students is part of the education record of the student parties involved and is protected from release under a federal law (FERPA). However, the University observes the legal exceptions that allow for notification of the parties involved and others whom the University determines to inform based on the law and this policy.

17.7.2. Students who bring any sort of sexual misconduct complaint against faculty or staff will be informed of the outcome of the investigation and the resolution.

17.7.3. The University may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a University policy that is a “crime of violence,” including: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction. The University will release this information to the complainant in any of these offenses regardless of the outcome.

#### 17.8. Alternative Testimony Options for Student Conduct Hearings

17.8.1. For student conduct complaints of a sensitive nature, whether the alleged survivor is serving as the complainant or as a witness, alternative testimony options may be given, such as placing a privacy screen in the hearing room, or allowing the alleged survivor to testify from another room via closed circuit television. While these options are intended to help make the survivor more comfortable, they are not intended to work to the disadvantage of the accused student.

#### 17.9. Past Sexual History/Character in Student Conduct Hearings

17.9.1. The past sexual history or sexual character of a party will not be admissible in hearings unless such information is determined to be highly relevant by the Vice President/Dean of Student Life or designee. All such information sought to be admitted will be presumed irrelevant, and any request to overcome this presumption by the parties must be included in the complaint/response or a subsequent written request, and must be reviewed in advance of the hearing by the Vice President/Dean of Student Life or Hearing Officer. While previous conduct violations by the accused

student are not generally admissible as information about the present alleged violation, the Vice President/Dean of Student Life or Hearing Officer may supply previous complaint information to the conduct board or may consider it him/herself if s/he is hearing the complaint, only if:

17.9.1.1. The accused was previously found to be responsible in a conduct hearing;

17.9.1.2. The previous incident was substantially similar to the present allegation;

17.9.1.3. Information indicates a pattern of behavior and substantial conformity with that pattern by the accused student.

## 18. Educational Programming

18.1. The University of Dubuque recognizes sexual misconduct as an important issue. The University offers educational programming to a variety of groups such as: Campus Safety & Security, Residence Life, faculty, and staff, incoming students participating in orientation activities, resident and off-campus students, and members of student organizations.

18.2. Sexual misconduct educational programming may address matters such as: a definition of what constitutes sexual misconduct, the causes of and myths involved with sexual misconduct, the relationship between sexual misconduct and alcohol use, what to do if you are assaulted, the nature of a rape examination, an explanation of the University sexual misconduct policy, how to file charges within the University and/or with the local police department, and campus community resources to assist both the survivor and the accused.

\* Parts of this policy are based on the NCHERM Model Sexual Misconduct Policy and Notre Dame College's Sexual Assault Policy and has been used with their permission.

\* This policy has been reviewed and edited, with UD permission, by Riverview Center advocates in July of 2017.